

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 23, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 23, 2024, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order

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

Mr. Vincent called the meeting to order.

**M 024 24
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from January 9, 2024, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Good Samaritan Organization, Redemption City and Delaware Hospice thanking Council for their donation.

**Public
Comments**

Public comments were heard:

Mr. Paul Reiger spoke about a letter written about a Planning & Zoning Commission Member and other matters related to the PZ Commission.

Ms. Denise Garner spoke about starting an environmental commission.

Mr. Mike Helwich spoke about traffic issues and proposed housing occurring in the area on Dorman Road in Lewes.

M 025 24

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to approve

**Approve
Consent
Agenda**

the following item under the Consent Agenda:

**Use of Existing Wastewater Infrastructure Agreement – IUA- 691
Highlands of Pepper Creek, Dagsboro/Frankford Area**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Adminis-
trator’s
Report**

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

1. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for December 2023 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of December.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Welches Pond (formerly Fieldstone – The Grove At Love Creek) Phase 2 (Construction Record); Showfield Sewer Extension Down Battlemixer Drive, both effective January 11th; Walden (formerly Burton’s Pond) Phase 5A (Construction Record); and Phase 6A (Construction Record), both effective January 16th.

[Attachments to the Administrator’s Report are not attached to the minutes.]

**Permission
to Prepare
& Post
Notices/
Leeward
Chase
Annexation
into
SCUSSD**

John Ashman, Director of Utility Planning & Design Review presented a request to prepare and post notices for Leeward Chase Annexation into the Sussex County Unified Sanitary Sewer District (Airpark Area).

Mr. Ashman reported that the Engineering Department received a request from Solutions IPeM on behalf of their client Leeward Chase DE, LLC the owners/developers of a project known as Leeward Chase for parcels 135-15.00-98.00 & 98.01. The project is otherwise known as Moore’s Meadow Farm. The project is proposed at 106 units and will be responsible for System Connection Charges of \$7,700 per EDU based on current rates. The Engineering Department is requesting permission to prepare and post notices for a Public Hearing on the annexation of the area.

**M 026 24
Approve
Permission
to Prepare
& Post
Notices**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved by the Sussex County Council that the Sussex County Engineering Department, is authorized to prepare and post notices for the Leeward Chase Annexation of the Sussex County Unified Sanitary Sewer District to include parcels 135-15.00-98.00 & 98.01 as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
South
Greenwood
Expansion
of SCUSSD**

A Public Hearing was held for the South Greenwood Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). Mr. Ashman reported that this was an expansion of the Sussex County Unified Sanitary Sewer District by creation of a new Area for parcels 530-14.00-16.00 & 17.00. The Engineering Department received a request from Delaware Electric Co-op for sewer service to a facility south of Greenwood. The request stated the inability to replace or expand their existing on-site system based on the existing building layouts. The request also stated the inability to replace or expand the existing on-site facility would prevent their future planned expansion providing new employment opportunities. They proposed to construct a low-pressure sewer system connecting multiple buildings to a common small grinder station that would connect to the County's existing infrastructure. Understanding they would be responsible for improvements and will pay for the electricity and provide the back-up generator service for the station.

Mr. Ashman reviewed the estimated annual service charges.

The County Council granted permission to prepare and post notices for a Public Hearing to establish a boundary on December 5, 2023. The Engineering Department added to the County website, posted the notices on January 8, 2024, and advertised the weeks of January 8th and January 15th. To date, there has been no correspondence received in favor or opposition. Mr. Ashman noted that residents are allowed to be included in this boundary with a request that can be received up to February 2, 2024, and then, the County Engineer will determine if they can be included.

There were no public comments.

The Public Hearing and public record were closed.

**Public
Comment**

Ms. Betty Jane Barney spoke about overburden issues near Dorman Road and Route 24.

**Proposed
Ordinance/
Western**

Hans Medlarz, County Engineer presented a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,797,264 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY

Sussex Regional Sanitary Sewer **IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

Introduction of Proposed Ordinance **Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,797,264 OF GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

The Proposed Ordinance will be advertised for a Public Hearing.

RK&K Wetland **Hans Medlarz, County Engineer presented a 5-year wetland data collection implementation from RK&K for Council’s consideration.**

M 027 24 Approve 5-year RKK Wetland Data Collection **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved, based on the recommendation of the Sussex County Engineering Department, that Council approve the RK&K 5-year wetland data collection implementation proposal in the not to exceed amount of \$145,157.17.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Herring Creek **Hans Medlarz, County Engineer presented change order no. 3 and amendment no. 7 for Herring Creek Project S20-08 for Council’s consideration.**

M 028 24 Approve CO No. 3 Herring Creek **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order 3 for contract S20-08, Herring Creek sanitary sewer district: South Gravity sewer and force main, Phase III be approved, increasing the contract time by 210 calendar days, contingent upon USDA concurrence.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 029 24 Approve **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering**

**Amendment No. 7/
Herring
Creek** Department, that amendment no. 7 to the EJCDC base engineering contract for the Herring Creek sanitary sewer district with Whitman, Requardt and Associates be approved in the amount not to exceed \$259,551.00, for additional construction administration and inspection services for contacts S20-07, S20-08 and S20-09, contingent upon USDA concurrence.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Winding
Creek/
Tidewater** Hans Medlarz, County Engineer presented an agreement with Tidewater Utilities, Inc. for Winding Creek Village Water District for Council's consideration.

**M 030 24
Approve
Agreement/
Tidewater
Utilities/
Winding
Creek** A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that Council approve the Winding Creek Village water district agreement with the Tidewater Utilities, Inc. as presented.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Old
Business/
CU2388** Under Old Business, Jamie Whitehouse, Director of Planning and Zoning presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE OR LESS" (property lying on the south side of Rifle Range Road [S.C.R. 545], approximately 1.14 mile east of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 131-15.00-51.00 [p/o]) filed on behalf of Rifle Range Road Solar, LLC.

The County Council held a Public Hearing on the application at the meeting on December 12, 2023. At the conclusion of the Public Hearing action on the application was deferred for further consideration.

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388** A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 2973 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388
(continued)**

OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience of and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar array will be located on approximately 36.65 acres of a larger 93-acre parcel.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options such as solar arrays. There was testimony that this solar array would benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is set back approximately 775 feet from Rifle Range Road, and the land is designated as being within the “Low-Density Area” according to Sussex County’s Future Land Use Map. This is an appropriate location for this solar array.**
- 5. This Application generally complies with Ordinance No. 2920 regarding solar arrays. Therefore, specific conditions regarding its operation and screening are not necessary.**
- 6. The solar array is located in an area that primarily consists of agricultural land. With the conditions imposed by the operation of Ordinance No. 2920 including separation distances and buffering, the proposed use will not have any adverse impact on the surrounding property.**
- 7. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 8. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. Several people spoke in support of the Application and there was no opposition to this Application.**
- 11. This recommendation is subject to the conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar arrays. No other types of electric generation shall be permitted at the site. The arrays shall be set back at least 775 feet from Rifle Range Road.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array, as well as the remaining acreage that is not part of the Conditional Use.**
 - c. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan.**
 - d. Any lighting at the facility shall only consist of perimeter lighting**

**M 031 24
Adopt
Ordinance
No. 2973/
CU2388
(continued)**

needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

- e. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of an emergency.
- f. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- h. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- i. The Final Site Plan shall contain a Landscape Plan for all of the buffer areas as stated during the public hearings.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for Council's consideration.

**M 032 24
Mispillion
Performa-
nce Series**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000 (\$500 from Mrs. Green's Councilmanic Grant Account and \$500 from Mr. Schaeffer's Councilmanic Grant Account) to Mispillion Performance Series for their 2024 concert series.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 033 24
ReTemp
Developm-
ent Center**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$750 (\$750 from Mr. Vincent's Councilmanic Grant Account) to ReTemp Development Center for their food project for seniors and homeless.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Introduction of Proposed Ordinances Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR VEHICLE STORAGE, MAINTENANCE, AND REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.43 ACRES MORE OR LESS” filed on behalf of Monish Malhotra.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.7 ACRES, MORE OR LESS” filed on behalf of Mahmut Yilmaz.

The Proposed Ordinances will be advertised for a Public Hearing.

Council Members’ Comments Mrs. Green commented that all of us are aware of statements made by one of the Planning & Zoning Commissioners from her district. She added that she takes her job very serious and votes on the matters before her based on the best interest of her constituents. It is important that politics do not taint the business of our County government, zoning decisions or appointments of Board Members. Constituents in her district feel disenfranchised by the appointment of this Member from the beginning. She stated that she will continue to keep her focus on her job and hopes the Commissioner does the same. She added that we need to move forward but we can not overlook how unprofessional and inappropriate this was, but we do need to move forward.

Public Comment Mr. Jonathan Hamburg spoke about traffic issues and development in the area of Dorman Road and Route 24.

M 034 24 Go Into Executive Session At 10:46 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to recess the Regular Session, and go into Executive Session for the purpose of discussing matters related to pending & potential litigation, collective bargaining & land acquisition.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Executive Session At 10:52 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation, collective bargaining & land acquisition. The Executive Session concluded at 11:28 a.m.

M 035 24 **At 11:33 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley**
Reconvene **to come out of Executive Session back into Regular Session.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Mr. Lawson noted that there was an agenda item listed for possible action related to the Collective Bargaining Agreement with AFSCME AFL-CIO and its affiliated local union 1926.

Mr. Lawson reported that the Council did meet related to the Environmental Services union agreement and the terms of the collective bargaining agreement. These terms were ratified by the union on January 16, 2024.

M 036 24 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it**
Approve **moved that Sussex County Council approves the ratified 2022-2028**
Collective **collective bargaining agreement between Sussex County and the Delaware**
Bargaining **Public Employees Counsel AFSCME AFL-CIO and its Affiliated Local**
Agreement **Union 1926.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

M 037 24 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess**
Recess **until 1:30 p.m. Public Hearings.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

M 038 24 **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.**
Reconvene **Schaeffer to reconvene.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Rules

Mr. Moore read the rules and procedures for public hearings.

**Public
Hearing/
CU2394**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS” (property lying on the southwest side of Gull Point Road [S.C.R. 313], approximately 591 ft. northeast of Downs Landing Road) (911 Address: N/A) (Tax Map Parcel: 234-34.00-4.01) filed on behalf of Wayne Development, LLC.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 12 recommended conditions as outlined.

The Council found that Ms. Mackenzie Peet, Esq. with Saul Ewing, LLP spoke on behalf of the Applicant; that also present were Mr. Matt Williams, member of Wayne Development, LLC and Mr. Bob Palmer, P.E. with Beacon Engineering. Ms. Peet presented two amendments to the conditions that were recommended by the Commission; that the property is located on the southwest side of Gull Point Rd., and northeast of Downs Landing Rd., being just outside of the Town of Millsboro; that the Applicant is requesting a Conditional Use for the operation of a self-storage facility to include, as shown on the Site Plan, one 2,500 sq. ft. of self-storage and a 900 sq. ft. office area, together with outdoor RV, boat, vehicle, and trailer storage with be at the rear of the site; that the site is approximately 14 acres and zoned AR-1 (Agricultural Residential); that the site is located within the Coastal Area, a designated growth area; that the site is predominantly located within Investment Level 3, with a small portion of the site being located within Investment Level 2; that the Planning & Zoning memorandum mentioned that a previous applications near the site such as a boat shrink business, landscaping business with sales & storage, auto repair shops and a construction company which include office, storage and retail components; that included in the memo from Planning & Zoning includes one application for boat storage that had previously been denied years ago by the site; that the denial in part had to do with lack of consideration for nearby neighbors with no screening or security, etc.; that the record reflects that Wayne Development does have proper screening, buffering and measures in place; that the Commission recommended approval of the Conditional Use; that there are two conditions, A and E that they are seeking

**Public
Hearing/
CU2394
(continued)**

amendments; that an amendment is being requested to include vehicular storage; that for Condition E, it is being requested to add limited onsite maintenance to allow for a safe transfer of inoperable boats, trailers, vehicles, etc.

There were no public comments.

The Public Hearing and the public record were closed.

**M 039 24
Amend
Condition A/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition A to add the word vehicles in the first sentence to read “The use shall be limited to self-storage and the storage of RVs, boats, vehicles and trailers”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 040 24
Amend
Condition E/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition E to read as follows “No sales or maintenance of RVs, boats, vehicles, or trailers shall occur on the site, except for limited mobile maintenance and repair services that can be reasonably performed onsite. These services may include minor maintenance tasks such as battery replacement, tire changes, and minor trailer repairs, such as to tongues or hitches. Such maintenance services shall not require extensive equipment or facilities available only at a designated repair facility.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2974 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and amended for Conditions A & E:

- 1. The Applicant seeks approval for a storage facility consisting of one self-storage and office building and outdoor RV and boat storage on approximately 14.34 acres.**
- 2. There is a need for the use proposed by the Applicant in this area**

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394
(continued)**

of Sussex County. There are many nearby residential developments that prohibit the storage or parking of boats and RVs within them. This is an appropriate, convenient location that addresses the need for off-site storage of their boats and RVs.

3. The Applicant has stated that access will be limited. As a result, the use will not have a substantial impact on area roadways.
4. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact on the neighboring properties or community.
5. The use has a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
6. No parties appeared in opposition to this Application.
7. This recommendation for approval is subject to the following conditions:
 - a. The use shall be limited to self-storage and the storage of RVs, boats, vehicles, and trailers. No other storage of vehicles or equipment shall occur on the site.
 - b. The facility shall only be accessible on a 24-hour basis. The site shall be fenced and gated with electronic access.
 - c. The perimeter of the site shall be fenced with a six-foot-high fence with interwoven screening that screens the property from neighboring and adjacent properties and roadways.
 - d. There shall be a 20-foot-wide landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use from those adjacent homes. The Final Site Plan for this use shall show the location of this buffer and it shall include a landscaping plan for it.
 - e. No sales or maintenance of RVs, boats, vehicles, or trailers shall occur on the site, except for limited mobile maintenance and repair services that can be reasonably performed onsite. These services may include minor maintenance tasks such as battery replacement, tire changes, and minor trailer repairs, such as to tongues or hitches. Such maintenance services shall not require extensive equipment or facilities available only at a designated repair facility.
 - f. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
 - h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
 - i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
 - j. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.
 - k. The parking and storage areas shall be covered with a

**M 041 24
Adopt
Ordinance
No. 2974/
CU2394
(continued)**

stabilized surface. The location and type of this material shall be shown on the Final Site Plan.

- 1. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2477**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS” (property lying on the east side of Patriots Way [S.C.R. 318], approximately 0.3 mile north of Avenue of Honor [S.C.R. 86]) (911 Address: N/A) (Tax Map Parcel: 133-7.00-8.00 ([p/o]) filed on behalf of State of Delaware.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of November 30, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated.

The Council found that Mr. Jonathan Richard, with Becker Morgan Group, Inc. spoke on behalf of the Applicant, The State of Delaware Office of Management and Budget, and the Delaware State Police; that also present was Major Ballinger with the Delaware State Police. Mr. Richard stated this Conditional Use is for a brand-new police barracks, Troop 4; that the site is located on the Stockley campus, located along Avenue of Honor and Patriots Way; that the leased site area is comprised of 44 acres of the total 830 acreage own by the State of Delaware; that the actual barracks will be comprised of 46,000 sq. ft., which will house an auditorium for public speaking and training sessions; that in addition to this house, as the State Police call, the SBI (State Bureau of Investigation); that there will be investigation and evidence rooms; that it a much longer facility than what is currently in Kent County for Troop 3; that to the left of the main building will be a maintenance building for the servicing of vehicles; that there will be a gravel impound lot which is towards the rear of the property; that there will be fencing and security; that there will be a secured fence along the entire perimeter of the back portion of the building including the maintenance building and gravel lot; that they also propose to have a pavilion and/or outdoor classroom area, which they have identified as the skid pad area; that this area is

**Public
Hearing/
CU2477
(continued)**

intended to be a driver training type area for the State Police; that this area will help facilitate cone-avoidance training; that there will be K-9 training as well; that public parking will be located toward the front of the site; that it is going to be landscaped to the requirement of the County Code; that stormwater management will be provided; that currently they anticipate the management system to be infiltration; that all stormwater management will comply with the Sussex Conservation District standards.

There were no public comments.

The Public Hearing and public record were closed.

**M 042 24
Adopt
Ordinance
No. 2975/
CU2477**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2975 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A POLICE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 44 ACRES, MORE OR LESS" for the reasons given by the Planning & Zoning Commission as follows:

1. The State is looking to utilize this location to replace the existing Troop 7 barrack that is outdated and undersized. This is an appropriate nearby location to utilize for a new Troop 7.
2. The location is among existing institutional, and government uses, including public schools, a state hospital, and a veteran's cemetery. There is also land that is zoned I-1 Institutional nearby. This is an appropriate location for a State Police Barracks with its ancillary uses.
3. This location will include a centralized location for the State Bureau of Investigation and the activities that occur as part of that Bureau. It is also large enough to accommodate space for State Police K9s, maintenance facilities, and vehicle training areas. It is also large enough to accommodate the State Police aviation units as needed.
4. This location as a State Police Barracks with these ancillary uses is centrally and conveniently located within Sussex County.
5. This Conditional Use promotes and serves the health, safety, and welfare of Sussex County residents, visitors, and businesses.
6. This Conditional Use will not have any adverse impact on neighboring properties, the community, or area roadways.
7. No parties appeared in opposition to this application.
8. There are no conditions associated with this recommendation, other than the standard condition that the Final Site Plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2491**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS” (property lying on the north side of Mount Joy Road [S.C.R. 297] and the west side of John J. Williams Highway [Rt. 24], at the intersection of Mount Joy Road [S.C.R. 297] and John J. Williams Highway [Rt. 24]) (911 Address: 30839 Mount Joy Road, Millsboro) (Tax Map Parcel: 234-29.00-263.06) filed on behalf of St. Michael the Archangel Church.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of November 30, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined.

The Council found that Ms. Patricia Clark, Business & Finance Manager for St. Michael the Archangel Church was present on behalf of the Application. Ms. Clark stated that the request is for an electronic message center on Agricultural Residential church property located at the intersection of Mount Joy Road and John J. Williams Highway; that as a faith community, there are several events held at the Church such as daily and weekly worship, weddings, funerals, fundraisers, and special events; that this sign will allow the Church to remotely notify the congregation of upcoming events; that this electronic message center will replace the sign that was originally on the property; that the sign was removed when DelDOT made some safety improvements at the intersection; that the old sign was 100 inches wide and 76 inches tall; that the new sign will be double sided, full color, electronic message center being 96 inches wide and 96 inches tall; that the new sign will be in the same location as the old sign; that the light has a light sensor meter which will allow Church members to regulate the light; that the sign will comply with Sussex County Ordinance; that the features on the sign are adjustable by the users and will remain in compliance with the ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 043 24
Adopt
Ordinance
No. 2976/
CU2491**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2976 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.94 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

- 1. This is an application for a Conditional Use to install an on-premises Electronic Message Display sign. This type of application is permitted under Section 115-161.1A (3) of the Zoning Code.**
- 2. The Electronic Message Center, or EMC will be located on the Church property and will be utilized for advertising church activities and events.**
- 3. The sign will replace a prior static display sign that was on the Church property but was removed as part of DelDOT’s work at the intersection of Route 24 and Mounty Joy Road.**
- 4. The sign will be required to comply with the requirements of the Zoning Code including brightness and motion.**
- 5. The proposed sign will not have any adverse impact on neighboring properties, area traffic, or roadways.**
- 6. No parties appeared in opposition to this Application.**
- 7. A Final Site Plan showing the location of the sign on the site shall be submitted to the Sussex County Planning and Zoning Commission for approval.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ1991**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS” (property lying on the north side of Daisey Road [S.C.R. 370], approximately 0.6 mile west of Bayard Road [S.C.R. 384]) (911 Address: 34665, 34723 & 34771 Daisey Road, Frankford) (Tax Map Parcel: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01) filed on behalf of Sycamore Chase Expansion.

Jamie Whitehouse, Director of Planning & Zoning presented the application.

**Public
Hearing/
CZ1991
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 18 recommended conditions as outlined.

The Council found that Mr. William Scott, with Scott and Shuman, P.A. spoke on behalf of the Applicant, Beazer Homes, LLC; that also present were Mr. Gavin Robinson with Beazer Homes, LLC, and Mr. Jason Palkewicz, PE with Solutions IPEM. Mr. Scott stated an Exhibit Booklet was submitted with a summary of the proposed project, as well as the other documents mentioned by Mr. Whitehouse; that additionally, there are various aerial maps, statements regarding compliance with the County Code and the Comprehensive Plan; that there are comments regarding the MR Zoning and the RPC overlay; that the request is to rezone the properties from AR-1 (Agricultural Residential) to MR (Medium Density Residential) with an RPC (Residential Planned Community) overlay; that the property is located adjacent to the existing Sycamore Chase, along Daisy Rd.; that the site is zoned AR-1 (Agricultural Residential) and is located with the Coastal Area according to the Comprehensive Plan; that the current condition of the site is predominantly cleared farmland with a small amount of woodlands; that there is approximately four acres of Federal non-tidal wetlands that are concentrated in the upper left portion of the site; that the property is located south of the Town of Ocean View; that the site is also in the nearby area of Fairway Village, which is a large townhouse development, Bear Trap Dunes, mixed of townhouses, single-family homes and stacked condominiums; that the site is also located near Forest Landing which in an MR-RPC with townhouses and duplexes, Friendship Creek, which was approved in 2018; that nearby Seaway Community; that across from that is Milos Haven, which was approved in 2019; that across from Friendship Creek is the pending community of Lilyvale, which is proposing 174 townhomes on 51 acres; that they are proposing 176 lots, consisting of a mixture of single-family and townhouse lots, with active and passive open space; that the parcel is comprised of 74.14 acres; that the proposed project area is located in an area where there has been significant historical and ongoing residential development similar to the character that they propose for the particular project; that the Application did participate in the PLUS process last year; that the PLUS letter and responses from the developer are included in the Exhibit Booklet; that the property is located within Investment Level 3 according to the State Spending Map; that Investment Level 3 areas are designated Growth Areas under the Comprehensive Plan; that the site is located within the Coastal Area, which also is designated a Growth Area and encourages the use of the RPC overlay designation, which allows for a mixture of housing types, as they are proposing; that the purpose of the Comprehensive Plan within the Coastal Area is to encourage the most concentrated forms of new development to be located within Growth Areas; that this includes higher density, residential development; that there are compliance statements

**Public
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CZ1991
(continued)**

included in the Exhibit Booklet, which address each of the components of the Comprehensive Plan; that the Application requests to rezone the site to MR; that the purpose of the MR Zoning District is for medium density residential development to be located in areas which are expected to become generally urban in character, and where sanitary sewers and public water supplies may, or may not, be available at the time of construction; that together with churches, recreational facilities, and accessory uses that may be necessary or normally compatible with residential buildings; that the MR Districts permits for a base density of 4.35 units per acre; that there is discussion in the Comprehensive Plan and in the County Code where higher densities could be permitted, where there are central water and sewer available, as there is at the proposed site; that the proposed density for the project is 2.63 units to the acre, which is significantly less than the base density in MR; that there is a statement in the Exhibit Book regarding the compliance with the requirements of the MR Zoning District, and the §99-9C Subdivision requirements; that the Application proposes an RPC (Residential Planned Community) overlay; that the purpose of an RPC is to encourage large scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design and ingenuity, while protecting existing and future developments; that by achieving the goals of the Comprehensive Plan, the proposed design uses superior standards in that great care has been taken to identify the portions of the property that are appropriate to be preserved, keeping development away from those areas and directing development towards the other portions of the property; that it is noted that there is 17.6 acres of existing woodlands on the site; that the plan proposed that 8.7 acres, roughly being half, of the existing woodlands would be preserved; that there is 4.1 acres of Federal non-tidal wetlands located on the property; that the wetlands would largely remain undisturbed and would only be disturbed if utility or road crossings were required; that they would obtain any required permits and comply with all regulations from the U.S. Army Corp of Engineers; that an RPC is encouraged by the Comprehensive Plan to be located within Growth Areas to provide a mixture of housing types as is being proposed; that the proposed development is designed to be compatible with the existing Sycamore Chase community; that there are two interconnections planned, being located at the north and south of the site; that these interconnections will be with the existing Sycamore Chase community; that there are disclosures included in the current Sycamore Chase community that specifically identified these properties as a possible expansion for the community; that if approved, it would be part of the Sycamore Chase HOA and have access to their amenities; hat the Application was submitted prior to the adoption of the Resource Buffer Ordinance, however, they are proposing a 30 ft. setback buffer from the wetlands; that they propose a 20 ft. landscape buffer, except where the property is located adjacent to the existing community, or where there are larger buffers or wetlands or tax ditches; that there is a 50 ft. buffer proposed from the adjacent existing farmland; that there is 36 acres (approximately 48%) of open space would be provided; that DelDOT stated the project would have a minor impact on traffic, and therefore no Traffic

**Public
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CZ1991
(continued)**

Impact Study (TIS) is required; that the project does qualify for the Area Wide Study Fee rather than the TIS; that they have had meetings with DelDOT, where improvements have been contemplated; that the discussed improvements include moving the frontage of Daisy Rd. along the project's frontage to 11 ft. travel lanes, and five foot shoulders and to improve Daisy Rd. to 11 ft. travel lanes to the extent feasible from Daisy Rd. to Bayard Rd.; that central water and sewer would be provided by Artesian; that Artesian Resources provided an Ability to Serve letter, which was included in the Exhibit Booklet; that stormwater management will be designed in compliance with DNREC and Sussex Conservation District requirements in order to meet or exceed the current regulations; that additionally submitted in the Exhibit Book is a study by Hardin-Knight Associates, Inc., who performed a Subsurface Geotechnical Soils Investigation; that this investigation determined that the proposed project is suitable for the development, including the infrastructure, home construction and stormwater management; that the entrance, which would require approval by DelDOT, is anticipated to be located along Daisy Rd., with two interconnections proposed to the existing Sycamore Chase community; that parking will be provided as required by Sussex County Code for all units; that proposed amenities, at minimum, would be an outdoor pool, clubhouse and walking trail; that the proposed community would become part of the existing Sycamore Chase, so that all owners on either side of the community would have access to each other's amenities; that the streets will be private, and designed to County standards; that sidewalks are proposed on one side of the street, which remains compatible with the existing Sycamore Chase community; that the sidewalks would interconnect with the existing Sycamore Chase community; that street lights, if any, would be downward facing and compatible with the street lighting found within the existing Sycamore Chase community; that landscaping will be provided and will be attractive and compatible with the landscaping found in the existing community; that the proposed project is to become part of the existing Sycamore Chase community, therefore the existing Homeowners Association would take care of the streets, stormwater management, open areas and assessment collection; that draft findings were provided which the Planning Commission used in conjunction with their recommendation; that draft findings of fact were also provided.

The Council found that Mr. Gavin Robinson, Vice President of Operations for Beazer Homes, LLC, spoke on behalf of the Application. Mr. Robinson stated that since December 2021, Beazer Homes has been successful in bringing home quality and energy efficient homes to the market in a sought after location; that Sycamore Chase is quickly approaching the end; that they look forward to the opportunity to bring a continuous of that successful project; that he thanked the Adkins family, who was also in attendance, for allowing them the opportunity to bring the project before the Council.

Public comments were heard.

**Public
Hearing/
CZ1991
(continued)**

Mr. Charles Parsons spoke in opposition of the application; that he owns the land directly west of Sycamore Chase expansion; that he does not want to be infringed upon because of what they are doing at the property; that he questioned the compliance of the 50 foot lands in agricultural use; that he is currently using his land in a form of agricultural use; that instead of a 20 foot buffer which is shown on the proposed plan, he questioned why it is not 50 feet.

Mr. Whitehouse explained that the Code calls for a buffer, if adjoining lands are in agricultural use in terms of 50 feet, there is a requirement that the new lots have the agricultural protection notice. He added that anyone living within 50 feet of agricultural lands are put on notice that they are living next to agricultural lands. He added that the buffer is different, it does not increase the buffer to 50 automatically; the two mechanisms operate parallel. Mr. Whitehouse noted that it can be added by a way of a condition if desired to note the lands are in agricultural use. Mr. Whitehouse stated that the buffer requirement is up to Council's control should Council desire to require a different buffer by way of conditions. It was pointed out that the Planning & Zoning Commission recommended a 30-foot buffer.

Mr. Parsons commented that the tax ditch requires an 80-foot right-of-way top of a bank, and it appears that some of the property lines are do not meet that requirement. Mr. Whitehouse commented that the applicant's plan proposes 40 feet, so the applicant is proposing a modification on the tax ditch easement as part of the subdivision. Mr. Parsons commented that he contacted DNREC; that there was a court order change no. 1 to make it 80 feet in 1953; that he knows that some subdivisions have encroached on that even putting building within the right-of-way. He requested that his property that is adjacent to the land is not infringed upon.

Ms. Sherry Parsons-Merritt spoke in opposition of the application; that she grew up adjacent to the property; that the farm has been in the family for 124 years and 6 generations; that she questioned the access point to Sycamore Chase; that there is a farm easement where the access would be coming into and that would cut off their land that is beside the proposed development; that it is an agricultural right-of-way that has been there forever; that it would land lock their property if this would occur; that she has no issues with the development; that she plans to move back to the area; that the access road would land lock their property giving them no access; that it was discussed that an easement is being requesting from her family for DelDOT needs by the developer; that she requested that their only access not be taken away; that they want to keep the property in their family.

The Public Hearing and public record were closed.

**M 044 24
Defer**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE

**Action/
CZ1991**

COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ1997**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” property lying on the west side of Old Stage Road [S.C.R. 461], at the intersection of Old Stage Road [S.C.R. 461] and Trussum Pond Road [S.C.R. 462] (911 Address: N/A) (Tax Map Parcel: 332-2.00-79.01) filed on behalf of Waste Management of Delaware, Inc.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 30, 2023. At the meeting of December 14, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined.

The Council found that Mr. Jim A. Fuqua, Jr., Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Waste Management of Delaware, Inc.; that also present was Mr. Pete Grim, District Manager for Waste Management. Mr. Fuqua stated there was an Exhibit packet submitted containing information for the Application; that the Application requests a rezoning of a 5.2-acre parcel that is located at the northwest corner of the intersection of Trussum Pond Rd. and Old Stage Rd.; that the Applicant is requesting a rezoning from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the parcel has road frontage on both roads; that the site is located a short distance east of Rt. 13, in the nearby area of Johnny Janosik Furniture store; that the parcel is owned by Waste Management; that the site is adjacent to a 12 acre parcel that is also owned by Waste Management; that the adjacent 12 acre parcel, Parcel 79.00, is zoned C-1 (General Commercial); that the property was purchased by Waste Management in 2018; that after Waste Management purchased Parcel 79.00, the existing commercial buildings on the site were converted into a waste management facility; that it is used for the maintenance and

**Public
Hearing/
CZ1997
(continued)**

repair of the companies as well as parking and storage of trucks, containers, and employee parking; that in addition, there are two, large self-storage buildings located there; that they are owned by Waste Management and is operated as Trussum Pond self-storage facility; that a few years ago, the company was contacted by the property owner of parcel 79.01, asking if they were interested in purchasing the property, and Waste Management subsequently purchased the property in October 2021; that company proceeded to remove the dwelling and the chicken houses; that a security fence was erected around the perimeter of the site; that there were no specific plans for the use of the site at that time other than for vehicle and container storage, as well as additional parking; that gradually, over time, the container began to be stored on parcel 79.01, which created a natural expansion; that the problem was, the use for storage is not a permitted use as parcel 79.01 is zoned AR-1 (Agricultural Residential); that they became aware of this when they received a Notice of Violation, which was issued on August 2022; that subsequently, the Applicant contacted him; that after reviewing the information he suggested the Applicant request a Change of Zone to C-3 (Heavy Commercial); that the Change of Zone request was filed in October 2022; that the site is located in the nearby area of several commercial services and storage business uses that currently exist along Trussum Pond Rd, which includes the existing Waste Management facility; that most of the land located on the south side of Trussum Pond Rd. is zoned C-1 (General Commercial); that on the north side all the land, except for the subject parcel, is zoned C-1 (General Commercial) as well; that going through the intersection with Old Stage Rd. the area is zoned commercial; that due to the surrounding area, they believe the request to rezone the parcel to C-3 (Heavy Commercial) is an appropriate and reasonable extension of the existing commercial corridor running from Rt. 13 to Old Stage Rd.; that under the County's Comprehensive Plan, Parcel 79.01 is designated as being within the Developing Area according to the Future Land Use Map; that the Developing Area is one of the growth areas identified in the Comprehensive Plan; that the guidelines for the Developing Area state that commercial uses should be permitted at appropriate locations in the developing area; that the large parcel directly across Trussum Pond Rd. from the site is not zoned commercial; that the parcel is zoned AR-1; that on the Future Land Use Map, that same parcel is designated as being within the Industrial Area; that they believe, according to the plan the site would be an appropriate place for industrial or warehouse type uses; that C-3 zoning is also recognized as an appropriate zoning designation in the developing area on that chart in the land use plan that gives the different zoning designations for that area, located on Page 424; that the Application was reviewed as part of the PLUS process; that the PLUS comments note that Parcel 79.01 is located within the State Investment Level 3, being a level where growth is anticipated; that the parcel is adjacent to commercially zoned land; that the request will be an expansion of an existing business already established in Sussex County; that the County's comments are included within the PLUS response, and confirm that the expansion of the existing Waste Management parking and storage onto Parcel 79.01 is a permitted use by right within the C-3 Zoning

**Public
Hearing/
CZ1997
(continued)**

District; that the rezoning will permit the expansion of the Waste Management business, providing a service that benefits the general convenience and welfare of the County’s residents; that the Applicant would have requested C-1 (General Commercial) zoning to remain consistent with the rest of the area; that as the Council knows, the C-1 (General Commercial) Zoning District closed many years ago, and can no longer be used for rezoning; that the closest request to C-1 zoning is the now C-3 (Heavy Commercial) Zoning; that they believe the rezoning is appropriate based on the existing uses in the area, and the existing commercial zones in the corridor along Trussum Pond Rd; that the conformity of the C-3 (Heavy Commercial) zoning with the Comprehensive Plan and the Future Land Use Map; and the practical result that the zoning change would allow an existing business to expand; that at the meeting of December 14, the Planning & Zoning Commission recommended approval of the requested zoning based on the Commission’s findings; that he requested the Council’s approval.

There were no public comments.

The Public Hearing and the public record were closed.

**M 045 24
Defer
Action/
CZ1997**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 046 24
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 2:44 p.m.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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