

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 25, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 25, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

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

Call to Order

Mr. Vincent called the meeting to order.

**M 027 22
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, 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 of the January 11, 2022 were approved by consensus.

**Corres-
pondence**

Mr. Moore read correspondence received from Delmarva Clergy United in Social Action Foundation and Barbara K. Brooks Transition House, Inc. in appreciation of the Council's support.

**Public
Comment**

There were no public comments.

**M 028 22
Approve
Consent
Agenda Item**

A motion was made by Mr. Rieley, seconded by Mr. Hudson to approve the following item listed under the Consent Agenda:

**Use of Existing Wastewater Infrastructure Agreement, IUA-724-1
Egret Shores, Millville Area**

Motion Adopted: 5 Yeas.

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

**M 028 22
(continued)**

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Recognition
of Retirees**

The Council recognized the following employees that are retiring:

Deborah (Debbie) Holding, Paramedic II, who is retiring after 30 years of service with the County.

Bradbury (Brad) Hawkes, Director of Environmental Services, who is retiring after 30 years of service with the County.

Robin Griffith, Clerk of the Council, who is retiring after 30 years of service with the County.

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Walden (formerly known as Burton's Pond) – Phase 2 effective January 5th, Showfield – Addendum 1/Revision #5 (Monroe Avenue Extension) Part of Phase 3 effective January 14th, and Middle Creek Preserve – Phase 6 (Construction Record) effective January 19th.

2. Reassessment

The property reassessment efforts continue in Sussex County with the County's vendor moving into the Angola, Long Neck and Oak Orchard areas starting January 24th, 2022. The public can track reassessment in their immediate areas through the Sussex County Reassessment page found on the County's website, www.sussexcountyde.gov.

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

**Proposed
Budget
Amendment
Ordinance**

Mrs. Jennings presented for consideration a Proposed Ordinance to amend the Annual Operating Budget Ordinance for Fiscal Year 2022 to incorporate additional Sussex County Realty Transfer Tax revenue and State passthrough grant revenue and the allowable expenditures related to the additional revenue in the Annual Operating Budget for the Fiscal Year Ending June 30, 2022.

Mrs. Jennings reported to the Council that there is additional revenue coming in due to Realty Transfer Tax. She added that the budgeted amount this year for RTT was \$24,900,000. Mrs. Jennings reminded the Council

**Proposed
Budget
Amendment
Ordinance
(continued)**

that RTT funds “shall be expended solely for the capital and operating costs of public safety services, economic development programs, public works services, capital projects and improvements, infrastructure projects and improvements, and debt reduction.”

All the recommendations brought forward today fall into those categories. Mrs. Jennings is recommending the amount \$12 million; allocating \$6,444,000 to the county’s town and cities (using a formula that revolves around the \$250,000 that was given to each ambulance company last year) and \$5,556,000 for land acquisition for open space. Mrs. Jennings also requested that Council amend the budget for unanticipated pass-through grants that were received from the State.

Mrs. Jennings further explained the City & Town RTT grant would be a one-time funding. The formula used to determine funding allocations was based on population and municipality’s budget. The grant amounts were \$100,000 minimum to \$500,000 maximum. She added that funding was only eligible for public safety services, economic development programs (approved by County Economic Development Director Bill Pfaff), Public Works and Infrastructure and capital projects. There is no match requirement for the first \$100,000 and a \$1 for \$1 match for anything above the \$100,000.

Mrs. Jennings then shared the fundings amounts that would be given to each municipality. If the Proposed Ordinance is approved, she would mail out letters to each Municipality to let them know how much they will receive.

Mrs. Jennings then asked for Council’s consideration to incorporate the grants received in the budget. This would increase the grant revenue by \$216,000 and decrease the grant revenue by \$216,000.

The next steps would include introduction of the Ordinance today, with a public hearing to be held on March 1st.

**Introduction
of Proposed
Ordinance**

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2022 TO INCORPORATE ADDITIONAL REALTY TRANSFER TAX REVENUE AND STATE PASSTHROUGH GRANT REVENUE AND THE ALLOWABLE EXPENDITURES RELATED TO THE ADDITIONAL REVENUE.”

**Proposed
Pintail
Pointe
Project
Ordinance**

Mr. Medlarz presented for consideration a Proposed Ordinance to authorize the issuance of up to \$959,888 for General Obligation bonds of Sussex County in connection with the emergency Pintail Pointe Project and Authorize all necessary actions in connection therewith.

Introduction of Proposed Ordinance **Mr. Shaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$959,888 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE EMERGENCY PINTAIL POINTE PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH.”**

Proposed Oak Acres and Tanglewood Project Ordinance **Mr. Medlarz presented for consideration a Proposed Ordinance to authorize the issuance of up to \$2,376,356 of general obligation bonds of Sussex County in connection with the Oak Acres and Tanglewood septic elimination project and authorizing all necessary actions in connection therewith.**

Introduction of Proposed Ordinance **Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,376,356 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE OAK ACRES AND TANGLEWOOD SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

South Coastal & Rehoboth Beach WRT Project Change **Mr. Medlarz explained that South Coastal RWF has an existing return sludge pumping station with three pumps of which two have been upgraded. The third unit recently experienced a failure, and the Environmental Services team requested the replacement of the pump and piping be integrated in the project.**

Orders Nos. 17 & 18 **In addition, it was determined that the pipe support configuration for the replacement of oxidation ditch influent piping at the City’s WTP required additional supports.**

M 029 22 South Coastal & Rehoboth WRT Treatment Project **A Motion was made by Mr. Shaeffer, seconded by Mr. Hudson to approve the recommendation of the Sussex County Engineering Department, that Change Order Nos. 17 and 18 for contract C19-11, South Coastal WRT Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, increasing the contract by \$8,992.49 and \$31,101.61 respectively.**

Motion Adopted: 5 Yeas.

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

Granting of Residential Access Easement **Mr. Medlarz shared that he was approached by the attorney for the buyer and seller’s that there is a parcel right behind the County’s pump station off Route 26 which is land locked. The pump station property was acquired along with the deeded access; however, it was never granted. Mr. Medlarz did not ask for any compensation due to this was a pre-existing condition of**

the property.

**M 030 22
Granting of
Residential
Access
Easement**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve the recommendation of the Sussex County Engineering Department, that the Sussex County Council approve the granting of a residential access easement to Janice Jarus for Tax Parcel 134-13.00-34.03.

**Old
Business/
Proposed
Ordinances/
Land Use
Map
Amendment
(Delmar
Area)**

Jamie Whitehouse, Planning and Zoning, Director, reported that a public hearing was held at the December 14, 2021, Council meeting. At that meeting, it was decided to leave the record open for receipt of comments. It was then bought back as Old Business at the January 11, 2022, Council meeting, where it was also decided to leave the record open for additional comments. Mr. Whitehouse confirmed that there have been twenty-five (25) letters received in response along with one petition consisting of five hundred eighteen (518) signatures. All the additional comments and letters that have been received since the last meeting were included in the packet or circulated. A letter and exhibit from the applicant were also received that was included in the packet.

Mr. Vincent closed the public record on this Ordinance Amendment.

**Old
Business/
Proposed
Ordinances/
Land Use
Map
Amendment
(Route 1)**

Mr. Whitehouse reported that a public hearing was held at the December 14, 2021, Council meeting. At that meeting, it was decided to leave the record open for receipt of comments. It was then bought back as Old Business at the January 11, 2022, Council meeting, where it was also decided to leave the record open for additional comments. Mr. Whitehouse confirmed that one hundred fifty-two (152) responses in opposition, fifty-three (53) in support for a total of two hundred five (205) comments received. A letter and an exhibit book have also been received from the applicant that were included in the packet.

Mr. Vincent close the public record on this Ordinance Amendment.

**Grant
Requests**

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

**M 031 22
SuperHero
5K
Run/Walk
Fundraiser**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$250 from Mr. Vincent's Councilmanic Grant Account to the Kim and Evans Family Foundation, Inc. for their SuperHero 5K Run/Walk Fundraiser.

Motion Adopted: 5 Yeas.

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

**M 032 22
Tether**

A Motion was made by Mr. Hudson, seconded by Mr. Vincent to give \$4,000.00 (\$1,500 from County-wide youth grant, \$500 from Mr. Rieley

Foundation for Camp Abilities Delaware (continued) Councilmanic Grant Account, \$500 from Mrs. Green’s Councilmanic Grant Account, \$500 from Mr. Schaeffer’s Councilmanic Grant Account, \$500 from Mr. Hudson’s Councilmanic Grant Account, \$500 from Mr. Vincent’s Councilmanic Grant Account) to the Tether Foundation for Camp Abilities Delaware.

Introduction of Proposed Ordinances Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS.” (Conditional Use 2322) filed on behalf of Spencer B. Yoder (Tax I.D. No. 531-12.00-110.00) (911 Address: 25981 Butler Branch Road, Seaford)

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TOURIST HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.831 ACRES, MORE OR LESS.” (Conditional Use 2285) filed on behalf of Ashley DiMichele (Tax I.D. No. 235-21.00-48.00) (911 Address: 26182 Cave Neck Road, Milton)

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A KITCHEN AND BATHROOM SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.248 ACRES, MORE OR LESS.” (Conditional Use 2321) filed on behalf of Coastal Properties, LLC (Tax I.D. No. 334-5.00-196.00) (911 Address: 17677 Stingey Lane, Lewes)

Mr. Schaeffer 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 RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.72 ACRES, MORE OR LESS.” (Change of Zone 1959) filed on behalf of Charles E. Turner, Jr. (Tax I.D. 135-11.00-65.00) (911 Address: N/A)

Mr. Schaeffer 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 C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING

- Introduction of Proposed Ordinances (continued)** **1.23 ACRES, MORE OR LESS.” (Change of Zone 1962) filed on behalf of Jeff-Kat, LLC (Tax I.D. 335-8.00-37.00) (911 Address: 1005 Kings Highway, Lewes)**
- Council Members’ Comments** **The Proposed Ordinances will be advertised for Public Hearing.**
- M 033 22 Go Into Executive Session** **At 10:34 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation, personnel, and 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**
- At 10:45 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matter relating to pending/potential litigation, land acquisition and personnel. The Executive Session concluded at 11:55 a.m.**
- M 034 22 Reconvene** **At 12:03 p.m., a Motion was made by Mr. Hudson seconded by Mr. Rieley 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**
- E/S Action** **There was no action on Executive Session matters.**
- M 035 22 Recess** **At 12:03 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to recess until 1:30 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**
- M 036 22 Reconvene** **At 1:36 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to reconvene.**
- Rules** **Mr. Moore read rules and procedures for public hearings.**

**Public
Hearing/
CU2277**

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 AND A GR GENERAL RESIDENTIAL DISTRICT TO DESIGNATE LOT 39, BLOCK A WITHIN THE EXISTING AVALON WOODS SUBDIVISION AS OPEN SPACE AND TO ALLOW FOR A SHED AMENITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.42 ACRES, MORE OR LESS.” (Conditional Use No. 2277) filed on behalf of Avalon Woods Owners Association, Inc. (Tax Parcel: 234-15.00-81.00) (911 Address: 27826 Avalon Drive, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on December 16, 2021 at which time action was deferred. On January 13, 2022, the Commission recommended approval with the following conditions:

- a. The site shall be located within a portion of the Open Area of the Avalon Woods Subdivision.**
- b. The use shall be limited to the existing shed, which is approximately 12 feet by 20 feet in size. This shed shall only be used for the storage of Homeowner’s Association documents and other items. The shed shall not be used for meetings of any kind.**
- c. The shed shall be kept in a neat and orderly appearance.**
- d. The failure to comply with these conditions of approval may be grounds for termination of this Conditional Use.**
- e. The Final Site Plan shall be subject to review and approval of the Sussex County Planning & Zoning Commission.**

(See the minutes of the Planning & Zoning Commission dated December 16, 2021 and January 13, 2022.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Avalon Woods Owners Association, Inc. Ms. Peet stated that the applicants are requesting a Conditional Use in an AR-1 and a General Residential (GR) zoning district to designate Lot 39A within the existing Avalon Woods Community as Open Area to allow for a shed amenity to be located on the property on the southwest side of Avalon Drive. She noted that the lot has always been used as Open Area and has one of the two pump houses on this lot; that a shed was placed on the lot and used for HOA meetings. She added that the HOA received a notice of violation on October 2, 2019, for placing a shed on a lot without the presence of a main dwelling for a period exceeding six months.

Ms. Peet explained that the shed was originally placed on the lot with the

**Public
Hearing/
CU2277
(continued)**

intention of using for storage and to hold HOA meetings. However, it was found that this was not an ideal space to have meetings. The applicant is requesting permission for the shed to remain on site for the purpose of storage.

Ms. Peet informed the Council that this lot is the location of one of two pump houses which makes this lot unbuildable.

Ms. Peet explained that the applicant is seeking that this be designated as open area. The dimensions of the shed are 10x20 and is being proposed to be used as an amenity to serve as storage. The Board of Directors would be the only parties with access to the shed during the hours of 7:00 a.m. until 7:00 p.m. from Sunday through Monday. It is anticipated that most of the access will occur during the evenings or weekends since all board members are employed full-time. Ms. Peet shared that there was a sign on site that has been removed; the shed meets the setback requirements, and this use will not adversely affect the surrounding properties.

There was no one from the public present that desired to speak.

The Public Hearing and public record were closed.

**M 037 22
Adopt
Ordinance
No. 2825/
CU 2277**

A motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Ordinance No. 2825 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO DESIGNATE LOT 39, BLOCK A WITHIN THE EXISTING AVALON WOODS SUBDIVISION AS OPEN SPACE AND TO ALLOW FOR A SHED AMENITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.42 ACRES, MORE OR LESS.” (Conditional Use No. 2277) filed on behalf of Avalon Woods Owners Association, Inc. (Tax Parcel: 234-15e.00-81.00) (911 Address: 27826 Avalon Drive, Georgetown) with the following conditions:

- 1. The use is an existing shed located within a portion of the Open Space of the Avalon Woods subdivision. The Avalon Woods Homeowner’s Association intends to use the shed for the storage of the Association’s records and other items.**
- 2. This is a very small use that will not adversely impact traffic or area roadways or any neighboring properties within the development.**
- 3. The use will be a benefit to the Avalon Woods Homeowner’s Association and the community’s residents by providing a convenient and secure location for storing the HOA’s records.**
- 4. The use will not require any water or sewer service.**
- 5. No parties appeared in opposition to this application.**
- 6. Ordinarily, the Commission is reluctant to allow a conditional use within a subdivision. However, this is a unique situation because the Applicant is the subdivision’s HOA, and the use is for the benefit of**

**M 037 22
Adopt
Ordinance
No. 2825/
CU 2277
(continued)**

- the HOA and the residents of the subdivision.
- 7. This recommendation is subject to the following conditions:**
- A. The site shall be located within a portion of the Open Area of the Avalon Woods Subdivision.**
 - B. The use shall be limited to the existing shed, which is approximately 12 feet by 20 feet in size. This shed shall only be used for the storage of Homeowner’s Association documents and other items. The shed shall not be used for meetings of any kind.**
 - C. The shed shall be kept in a neat and orderly appearance.**
 - D. The failure to comply with these conditions of approval may be grounds for termination of this Conditional Use.**
 - E. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and 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/
CZ1947**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.33 ACRES AND 0.08 ACRE, MORE OR LESS.” (property lying on the southwest side of DuPont Boulevard (Route 113) approximately 351 feet northwest of Governor Stockley Road [S.C.R. 432]) (911 Addresses: 25116, 25076 & 25136 DuPont Boulevard, Georgetown) (Tax Parcels: 133-6.00-50.00 & p/o 50.02)

The Planning and Zoning Commission held a Public Hearing on this application on December 16, 2021 at which time action was deferred. On January 13, 2022, the Commission recommend approval.

(See the minutes of the Planning and Zoning Commission dated December 16, 2021 and January 13, 2022.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that David Hutt, Esq., was present on behalf of the Applicant. Mr. Bob Stickles, General Manager of Joseph Family Companies and Mr. Mark Davidson, Principal Land Planner with Pennoni were also in attendance for the application.

Mr. Hutt explained that the application being presented today is for a total

**Public
Hearing/
CZ1947
(continued)**

of 4.41 acres of which sits on two parcels of land. There will be no improvements made on the portion of parcel 50.02; he further explained there is a drive aisle from the runway to the Melvin Joseph building. On parcel 50, there are several buildings and the private runway which is no longer being used. Mr. Hutt noted that there are other C-1 zoning in this area and a large parcel across Governor Stockley Road which is designated as Medium Commercial District (C-2); in addition, to the commercially zoned properties, there are several Conditional Use permits in this area that were shown. Mr. Hutt stated that Chapter 4 of the Comprehensive Plan states that the goal is to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County. He noted that this Application provides for the County to provide for those opportunities; when businesses are looking for locations, they are looking for property that is situated on highways and major routes on intersections.

Mr. Hutt stated that the Commercial Area in the Comprehensive Plan is described as including concentrations of retail and service used mainly located on Arterial Roads and Highway. It further states that it includes commercial corridors, shopping centers, and other medium and large commercial vicinities geared towards vehicular traffic. Mr. Hutt pointed out that this site would be appropriate to locate other medium and larger scale commercial uses not primarily targeted to the immediate adjacent residential areas.

Mr. Hutt reported that there are no wetlands located on site, the property meets the bulk area requirements of the County Code, the property is in flood zone X, the site has well-drained soils which will be suitable for on-site wastewater disposal system. The property is in a fair and good ground water recharge area; there was no Traffic Impact Study as that will be based on the end use for this property.

Mr. Hutt noted that reason #6 listed on the Commission's approval should be corrected to read that the water and sewer will be served by on-site rather than central water and sewer.

Mr. Rieley asked if the runway was decommissioned or planned to be used in the future. Mr. Hutt replied that it is not planned to be used in the future and is only used for vehicular traffic. Mr. Moore added that there are large X's placed in several areas on the runway.

There was nobody from the public that desired to speak.

The Public Hearing and public record were closed.

**M 038 22
Amend
Ordinance
No. 2826/
CZ1947**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to amend Item #6 to read "The site will be served by onsite water and sewer."

Motion Adopted: 5 Yeas.

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

M 039 22
Adopt
Ordinance
No. 2826/
CZ1947

A motion was made by Mrs. Green, seconded by Mr. Schaeffer to adopted Ordinance No. 2826 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.33 ACRES AND 0.08 ACRE, MORE OR LESS.” (property lying on the southwest side of DuPont Boulevard (Route 113) approximately 351 feet northwest of Governor Stockley Road [S.C.R. 432]) (911 Addresses: 25116, 25076 & 25136 DuPont Boulevard, Georgetown) (Tax Parcels: 133-6.00-50.00 & p/o 50.02) for the reasons given by Planning and Zoning and amended by Council as follows:

- 1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.**
- 2. The site is adjacent to C-1 property that is currently used by the Applicant’s company for its construction, site work, and paving operations.**
- 3. The property is generally located at the corner of Route 113 and Governor Stockley Road. The land on the opposite side of Governor Stockley Road is zoned C-1 and C-2. This is an appropriate location for an expansion of the Applicant’s commercial zoning by adding additional C-3 land to he existing C-1 Zoning.**
- 4. This location currently has several accessory buildings on the site, including a former airplane hangar. These buildings will be incorporated into the Applicant’s existing operations at the site.**
- 5. As stated by the Applicant, there will continue to be interconnectivity between this land and the existing C-1 land that is next to it.**
- 6. The site will be served by onsite water and sewer.**
- 7. The site is in the Commercial Area according to the Sussex County Land Use Plan. C-3 Zoning is appropriate in this Area according to the Plan.**
- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 9. Any future use of the property will be subject to the Site Plan review by the Sussex County Planning and 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
CZ 1948**

A Public Hearing on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL NUMBER 15 OF C/Z 1538 (ORDINANCE NO. 1700) AND C/Z 1926 (ORDINANCE NO. 2786) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS.” (property lying on the east side of Hebron Road, approximately 0.19 mile south of the intersection of Hebron Road and Holland Glade Road [S.C.R. 271]) (911 Address: N/A) (Tax Parcel: 334-13.00-334.00, 1448.00-1750.00)

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2021 at which time action was deferred. On January 13, 2022, the Commission recommended approval for the seven reasons and subject to the amended condition wording as outlined within the motion as follows:

- 1. This matter was previously considered by the Commission, and the Commission recommended an amendment to Condition #15 to allow one dock for kayaks and paddleboards. Since both DNREC and the U. S. Army Corps of Engineers have jurisdiction over the location and dimensions of such a dock, the recommended approval was subject to their jurisdiction. After the Council hearing, the Commission’s recommendation was amended by Council to include specific dimensions of the dock, which evidently are impossible or impractical to meet according to the record from this current application. For this reason, I move that the Commission’s original recommendation be followed, with the County approval being subject to the review and approval of the state and federal agencies who have jurisdiction over a dock like this. This recommendation is again based upon the following reasons:**
- 2. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.**
- 3. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.**
- 4. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.**
- 5. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the**

**Public
Hearing
CZ 1948
(continued)**

- environment than many of these existing docks and the motorized boats that they serve.
6. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.
 7. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:
“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC, and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats, or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps, or other water-related facilities shall be permitted.”

Mr. Jamie Whitehouse, Director of Planning and Zoning presented the application.

Mr. Tim Willard, Esq. spoke on behalf on the Applicant, Ms. Melissa Donnelly and Mr. Ken Larson were also present to represent the application.

Mr. Willard explained that the Applicant is requesting to have the previous Conditions of Approval amended to be permitted to build their proposed dock. He added that the County Council did approve the Application and added a Condition that gave Conditions for construction of the dock. Mr. Launay has stated that based off the condition for construction of the dock, it would not be approved by DNREC, and The Army Corp of Engineers based on the dimensions. Therefore, the request was refiled to amend Ordinance No. 2786 for the deletion of Paragraph F.

Mr. Willard noted that if approval is granted to allow the dock, the Applicant will have to go to DNREC and The Army Corp of Engineers for approval.

Mr. Willard pointed out that the public already has access to the waterway, and this will make it safer for them to use this amenity.

Mr. Willard stated that Mr. Paradee’s documents reference a compromise, he believes there is no compromise.

Mr. Willard asked for consideration for an amended to paragraph 15 as follows:

**Public
Hearing
CZ 1948
(continued)**

“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC, and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats, or other marine equipment shall be permitted along the dock or landward of it within the park. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps, or other water-related facilities shall be permitted.”

Mr. Willard discussed the opposition letter received from Mr. Paradee who represents residents of Henlopen Acres. It was noted that the dock may have to shift North due to a land issue but that does not seem to be an issue. He added that representatives of the HOA are up to speed of what they can do on the canal.

Mr. Willard noted that if this is approved, it would come back for site plan review.

Mr. Robert West, member and resident of Canal Point HOA came forward to speak in favor of the application. He shared that the feeling of neighbors in the community is that their side has not been considered as much as the other side.

Mr. John Paradee from Baird, Mandalas, Brockstedt, LLC came forward to speak in opposition of the application. Mr. Paradee represents a group of homeowners that live across the canal that will have to view this dock every day from their homes. He added that when this subdivision was approved in 2004, many of those people expressed concerns about 600 residents on the edge of this canal. Those concerns were echoed by DNREC and numerous other homeowners and neighbors in the area. At that time, it was decided to protect the Canal.

Mr. Paradee encouraged the Council to not accept the blind faith of the Applicant’s assertions that DNREC and the Army Corps of Engineers will not permit the dock of more limited size and scope. He added that it is not known if the Application would be denied since an Application has not been submitted to those agencies.

Mr. Paradee shared a compromise design to the Council that would meet the needs that have been expressed. It would also protect his client’s concern about the size of the dock.

Mr. Paradee requested that the compromise plan be considered. He added that there is a question about the location. Currently, where the dock is proposed, it would need to cross over private property. He added that an easement has been negotiated with that property owner that would allow

**Public
Hearing
CZ 1948**

the dock to cross the property.

The Public Hearing and public record were closed.

**M 040 22
Defer Action
on CZ 1948**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to defer action on Change of Zone No. 1948 filed on behalf of The Grande at Canal Point Maintenance Corporation.

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 22
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 2:41 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.}

