

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 28, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 28, 2025, at 10:00 a.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Matt Lloyd	Councilman
Steve C. McCarron	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. Hudson.

**Call to
Order**

Mr. Hudson called the meeting to order.

**M 026 25
Approve
Agenda**

Mr. Lawson reported that Executive Session – Land Acquisition and possible action on Executive Session Items can be removed from today’s agenda. A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, to approve the Agenda as amended.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Minutes

The minutes from January 14, 2025 were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Good Samaritan Aid Organization, Nanticoke River Arts Council, Southern Delaware Therapeutic Riding and Off-Street Sports Performance thanking Council for their donation.

**Public
Comments**

Public comments were heard, and the following people spoke:

Mr. David Marks spoke about changes that are being submitted for the Osprey Point community.

Mr. Michael Falk spoke about changes that are being submitted for the Osprey Point community.

Mr. Keith Steck spoke about overdevelopment and lack of services.

**Public
Comments
(continued)**

Mr. Greg Kordal spoke about the elections and potential changes.

Ms. Susan Anderheggen spoke about allowing public comments by telephone for Planning Commission meetings and a letter she submitted about an application.

**County
Council
priorities**

Mr. Lawson led a discussion relating to the County Council's priorities. Mr. Lawson explained that Council Members submitted their priorities to President Hudson. Mr. Lawson grouped the priorities into select topics to measure the level of interest in each topic. The topics included: land development, affordable & workforce housing, open space & farmland preservation, strategy, public safety, impact fees, school funding, code updates, economic development and environment. Based on the grouping, the two topics with the most submissions was Land Development followed by Affordable and Workforce Housing. The Council Members submissions were presented and discussed.

After a discussion among the Council Members of the topics presented and discussion, Mr. Hudson proposed that a working group be put together.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Bay Knolls – Phase 3 (Construction Record) received Substantial Completion effective January 13th.

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

**Board of
Assessment
Review**

Mrs. Jennings reported that in December, Council appointed 5 board members and 3 alternates to the Board of Assessment Review. Unfortunately, one of the alternates has resigned due to commitments outside of the state. Therefore, Council needs to appoint a new alternate to the board per state code. A public interview was held for Mr. Jeffrey Howard to serve as an alternate to the Board of Assessment Review.

**M 027 25
Approve
Board of
Assessment
Member**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley be it moved that the Sussex County Council appoints Mr. Jeffrey Howard to the Board of Assessment Review as an alternate for a term of three years.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Development Activity Presentation **Jamie Whitehouse, Planning & Zoning Director led a discussion relating to development activity. Mr. Whitehouse reported that 14 of the municipalities in Sussex County go through the Sussex County Building Code Department. Mr. Whitehouse presented information including various maps showing the number of applications submitted to the Planning & Zoning Department, building permit locations for several years and percentage distribution of building permits for residential dwellings by the 2020 State Spending Strategies.**

DTCC Agreement **Bill Pfaff, Director of Economic Development presented a lease agreement with Delaware Technical Community College for the kitchen incubator for Council's consideration.**

M 028 25 Approve DTCC Kitchen Incubator Lease **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that the Sussex County Council approves the lease agreement between Delaware Technical & Community College and Sussex County Government for the purpose of operating a kitchen incubator, known as Sussex Kitchen DE, located at 21179 College Drive, Georgetown, DE.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Paramedic Station CO **Mark Parker, Assistant County Engineer presented change order no. 4 for paramedic station 103 for Council's consideration.**

M 029 25 Approve CO No. 4/ Paramedic Station 103 **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd that based on the recommendation of the Sussex County Engineering Department, that change order no. 4 be approved for contract C21-18, Paramedic Station 103 increasing the contract amount by \$4,504.50 to \$1,833,009.06.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Dump Truck RFP **Paul Mauser, Assistant County Engineer presented a recommendation to award for a dump truck for Council's consideration.**

M 030 25 Approve Dump Truck RFP **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that based on the recommendation of the Sussex County Engineering Department, that Sussex County award and enter into an agreement with One Nation Distribution, LLC for the dump truck procurement, alternate bid 2 in the amount of \$259,989.00.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

SCRWF Change Orders Hans Medlarz, Project Engineer presented change order nos. IB-002, IB-003 (Ronca) and IB-003 (electric) for the SCRWF treatment process upgrade no. 3 – Inland Bays extension for Council’s consideration.

M 031 25 Approve CO No. IB-002/ SCRWF A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based up the recommendation of the Sussex County Engineering Department that M.F. Ronca & Sons & Inc., Inland Bays Phase 2 project, change order no. IB-002 in the amount of \$208,250.00, with a monthly amount of \$116,000.00 beginning with the first invoice for on-site work under IB-002, be approved.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 032 25 Approve CO No. IB-003/ SCRWF A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based up the recommendation of the Sussex County Engineering Department that BW Electric, Inc.’s change order no. IB-003 for the Inland Bays phase 2 project, be approved in the initial amount of \$57,417.94 and a monthly amount of \$3,421.40, starting with the February 2025 invoice.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Amendment 1/PS 207 Hans Medlarz, Project Engineer presented amendment no. 1 for PS 207 forcemain interconnect for Council’s consideration.

M 033 25 Approve Amendment No. 1/PS 207 A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the 2024 Miscellaneous Engineering base agreement with Davis, Bowen & Friedel, Inc., be approved in the amount not to exceed \$111,000.00 for survey and design services associated with the PS207 FM interconnect project.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Grant Requests

Mrs. Jennings presented grants for Council's consideration.

**M 034 25
Autism
Delaware**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$2,000 (\$200 from Mr. Rieley's Councilmanic Grant Account and \$1,800 from Mr. Hudson's Councilmanic Grant Account) to Autism Delaware for their 2025 Walk for Autism event.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 035 25
Rev. Dr.
Martin
Luther
King, Jr.**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to give \$1,500 (\$750 from Mr. Hudson's Councilmanic Grant Account and \$750 from Mr. Rieley's Councilmanic Grant Account) to the Reverend Dr. Martin Luther King Jr. celebration organization of Sussex County, Inc. for their together we make the dream work program.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Introduction
of Proposed
Ordinances**

Mr. Lloyd introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF A COMMERCIAL BATTERY ENERGY STORAGE SYSTEM (BESS) FACILITY, AND ASSOCIATED SUBSTATION TO BE LOCATED ON A 6.22 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING, AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 52.34 ACRES, MORE OR LESS" filed on behalf of Blue Hen Storage, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.76 ACRES, MORE OR LESS" filed on behalf of David A. & Sandra W. Blank.

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED,

Introduction of Proposed Ordinances (continued)

SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS” filed on behalf of George Bailey.

Mr. Rieley introduced 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-2 MEDIUM COMMERCIAL DISTRICT FOR A 9.99 ACRE PORTION OF CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.00 ACRES, MORE OR LESS” filed on behalf of Citation Rentals, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

Council Members’ Comments

There were no Council Member comments.

M 036 25 Recess

At 12:27 p.m., a Motion was made by Mr. McCarron, seconded by Mr. Lloyd to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

M 037 25 Reconvene

At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to reconvene.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Absent; Mr. Rieley, Yea; Mr. Hudson, Yea

Rules

Mr. Moore read the rules of procedure for public hearings.

Public Hearing/ CU2520

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 FARM WINERY WITH TASTING ROOM AND EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 38.66 ACRES, MORE OR LESS” (property is lying on the west side of Twin Branch Road, approximately 0.89 mile south of the intersection of Saw Mill Road [S.C.R. 238] and Twin Branch Road) (911 Address: 14756 Twin Branch Road, Milton) (Tax Map Parcels: 235-19.00-11.00 & 11.01) filed on behalf of Twin Branches, LLC.

Jamie Whitehouse, Planning & Zoning Director presented the application.

**Public
Hearing/
CU2520
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on November 20, 2024. At the meeting of December 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons and 7 recommended conditions of approval as outlined.

The Council found that Mr. Tim Willard, Esq., of Willard, Fuqua & Schab, spoke on behalf of the applicant Shauna Thompson and Wayne Hawkins, owners of Twin Branches, LLC; that they got their license for the business and they own the land it is on and then they got their liquor license and a farm winery license in 2020; that they were operating and the building permit issue kind of drove things that they needed a commercial permit; that the farm winery license gives them the opportunity to manufacture, sell and do other stuff and have a tasting room; the ABC Commissioner has jurisdiction over alcohol and the County has jurisdiction over land use; that they want to continue the farm winery, which means manufacturing, selling, tasting and have food and sell merchandise; that they want to do more, maybe have some weddings, or private parties; that in terms of the property itself, it is located on a 25 foot road located on the West side of Twin Branch Rd. approximately .89 miles South of the intersection of Sawmill Road and Twin Branch Rd.; that there is a 10 acre meadow in the middle of the property that comes into a culvert and a pond on the right with the building that was built where they'd have guests in that parking lot right next to it and to the look to the left, there's 10 acres of vineyards, which at least six or eight acres are planted; that if you bear off to the left of the road there is a farm warehouse, but all the way down to the left is where the winery building is, and there are six big cylinder tanks; that if you are in the vineyards looking back towards the tasting room there's a patio out front and they've used much of the hardwood surrounding the forest to make the bar and the tables; that the building has Fire Marshall approval for 90-92 people and it's on 2,700 square feet; that the applicant's plan was approved by the Fire Marshall on April 1, 2024; that they put in the sprinkler system and that they got final approval from the Fire Marshall for what has been completed; that the parking area has space with designated parking that can handle about 25 cars along the outside of the road and another space for about 25 where that horseshoe and another 25 in the grass; that DeIDOT stated that the traffic impact is negligible and the engineering report that there is no county infrastructure for sewer water as it has septic and well; that the findings and conditions are as follows:

- 1. The use will occur within a 38.66-acre parcel that is used to grow grapes for making wine. The Applicant also owns most of the land that surrounds the parcel that is the subject of this Conditional Use.**
- 2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as "agritourism" that promotes the agricultural industry in Sussex County. This type of use is appropriate in the Low-Density Area according to the Sussex**

**Public
Hearing/
CU2520
(continued)**

County Comprehensive Plan.

- 3. The Applicant intends to hold events that include weddings, birthdays, parties, craft shows, and similar functions with limited hours.**
- 4. The site will have sufficient areas for parking. According to the site plan there are at least 75 parking spaces available.**
- 5. No parties appeared in opposition to this Application.**
- 6. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.**
- 7. This recommendation is subject to the following conditions:**
 - a. The area shall be used as a farm winery, tasting room, and events venue.**
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.**
 - c. The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner.**
 - d. The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.**
 - e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
 - f. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
 - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Mrs. Thompson stated that as the owner of Twin Branches, she is a Sussex County native; that this was farmland; that farming is no longer suitable for the land; that the equipment became too big to get over the branch; that the property is a gem.

There were no public comments.

The Public Hearing and public record were closed.

**M 038 25
Amend
Condition
7C/CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend condition 7C to read “The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 039 25
Amend
Condition
CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to amend condition 7D to read “The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 040 25
Adopt
Ordinance
No. 3069/
CU2520**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Ordinance No. 3069 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM WINERY WITH TASTING ROOM AND EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 38.66 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended by this Council:

- 1. The use will occur within a 38.66-acre parcel that is used to grow grapes for making wine. The Applicant also owns most of the land that surrounds the parcel that is the subject of this Conditional Use.**
- 2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as “agritourism” that promotes the agricultural industry in Sussex County. This type of use is appropriate in the Low-Density Area according to the Sussex County Comprehensive Plan.**
- 3. The Applicant intends to hold events that include weddings, birthdays, parties, craft shows, and similar functions with limited hours.**
- 4. The site will have sufficient areas for parking. According to the site plan there are at least 75 parking spaces available.**
- 5. No parties appeared in opposition to this Application.**
- 6. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.**

**M 040 25
Adopt
Ordinance
No. 3069/
CU2520
(continued)**

- 7. This recommendation is subject to the following conditions:**
 - a. The area shall be used as a farm winery, tasting room, and events venue.**
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.**
 - c. The consumption, manufacture, and sale of alcoholic beverages shall be permitted subject to the approval of the Delaware Office of the Alcoholic Beverage Control Commissioner.**
 - d. The hours of operation for the tasting room shall be 7 days a week, with hours of operation from noon until 9:00 p.m., with the exception of Sundays, which shall be from noon until 6:00 p.m. The hours for events may vary but shall not begin before 11:00 a.m. nor extend past 11:00 p.m.**
 - e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
 - f. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
 - g. 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: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CU2270**

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 OPERATE AN OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS” (properties are lying on the northwest side of the intersection of Hastings Farm Road [S.C.R. 526] and Coverdale Road [S.C.R. 525]) (911 Addresses: 22372, 22378 & 22382 Coverdale Road, Seaford) (Tax Map Parcels: 231-9.00-4.00, 5.00 & 5.01) filed on behalf of Gregory Mitchell.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on November 20, 2024. At the meeting of December 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 4 reasons and subject to the 10 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq., of Morris James, spoke

**Public
Hearing/
CU2270
(continued)**

on behalf of the applicant Greg Mitchell; that this application is for conditional use to allow other racing classes to race at the outdoor racetrack situated at the northwest corner of Coverdale Rd. and Hastings Farm Road; that there is a pre-existing non-conforming outdoor race track, that exists on this property and as long as the pre-existing non-conforming use hasn't been suspended and it's actively going on regardless of what happens, there will be racing that continues at the Middleford Speedway based upon the pre-existing non-conforming use; that Lawrence Lank sent a letter to two owners that preceded Mr. Mitchell in his purchase of the track with concerns about the types of vehicles that were racing there in 2010; that the raceway is non-conforming and was limited to go-kart and motorcycle racing and micro-midget racing were permitted since the engines were of a motorcycle type; that there are numerous types of vehicles that race on the raceway; that the racing will continue regardless of the action today due to the preexisting nonconforming use; that Mr. Lank's letter also talks about, in addition to identifying what the non-conforming use was, it said that the owner at that time should consider filing a conditional use for other types of racing if that was their goal; that the ownership of the track has changed twice in order for us to reach this hearing; that when the survey was being prepared, two things were noted, that the entrance to the racetrack was not the applicants property, it has been off of Coverdale Road on an adjacent property and parking that exists is not on Mr. Mitchell's property; that when things like ownership of property and rights of way have not been fully investigated and determined prior to coming to a public hearing it makes it difficult to bring the application forward; that earlier this year Mr. Mitchell was able to acquire this property and own the property with the entrance and parking on it; that the property is located in a rural area; that the property timeline shows that it went from agricultural and wooded in 1937, then burrow activity showed up between 1954 and 1961 and then racing on the burrows around 1968; that in 1992 there are motorcross tracks and then a full racetrack beginning in 2002; that racing has occurred on the property from 1970 and forward; that the ownership has changed about five times; that the property is zoned AR-1, as are the properties to the North, West and the South of it; that this is a very large GR General Residential zone property and almost everything on the opposite side of Coverdale Rd. is zoned GR General Residential; that this is a low density area; that water is provided through onsite well and porta johns are used as sanitary sewer services; that this is a gated site and can only gain access when it is open for race events/practice; that there is a ticket booth and parking once you enter the site; that the track itself is an oval ¼ mile lighted dirt track that has events on Friday and Saturday evenings (sometimes Sunday if weather pushes them over but is rare) between the months of April and November; that when a race event is scheduled the track is open for practice runs during the week with only one car permitted at a time; that the track employs approximately 20-25 people, there is no sale of alcohol at the races, the race events normally start around 6:00 p.m. - 7:00 p.m. and

**Public
Hearing/
CU2270
(continued)**

conclude around 11:00 p.m. to midnight; that some events can go past the 11:00 p.m. time due to weather or other difficulties with the track; that outdoor race tracks as a conditional use, in the AR-1 District are permitted and the historic use of this racetrack since 1970 is certainly a public or semipublic use for the convenience of those in the County; that it supports local businesses, and individuals who participate in the events are employed at those events, and the vendors sell things at those events to folks here in Sussex County; that unlike many of the applications before the Council, typically the primary concerns are things like density and traffic for land use development applications; that as an outdoor race track that is not the primary concern, DelDOT referred to the traffic impact as negligible so one of the primary considerations for an outdoor racetrack is the sound or noise generated by the racing activity at the site; that an expert was retained to conduct a sound study, analyzing the sound, by the name of Vince Daliessio, a certified industrial hygienist and senior industrial hygienist with Penonni; that the sound that was attributed to the vehicles that fall into the category of things that our pre-existing non-conforming uses.

Mr. Vincent Daliessio, a Certified Industrial Engineer, spoke on behalf of the applicant that his job is to anticipate, recognize, evaluate, control and confirm protection from environmental stressors; that he is certified in community noise enforcement and in using the equipment, sound level meters to evaluate noise appropriately against noise codes where they exist; that he went out to the site to collect sound level readings during a racing exhibition which ran all the classes that are currently running at the site, as well as a couple of additional classes that the applicant would like to run; that for the types that are currently running, the L Max numbers are the junior slingshots at 72DB, the mod lights at 82DB and the 600 sprints at 84DB and the new classes of engines being proposed are the Super Trucks at 79DB, the Little Lincoln at 81DB, the Modified 5.7 liter Chevy V8 engine at 85DB and Late Model 5.7.Liter Chevy V8 autotype engine at 87DB; that this was completed during an exhibit event; that the added uses were added when the test was completed; that the super trucks were measured at 79 DB; that the little Lincoln were measured at 81 DB; that the two types that are more modern race cars measured at 85DB; that the late model measured at 87DB; that it is a type 2 meter that was used; that the data indicates a 3 decimal difference between the loudest vehicles that are permitted to race there and the vehicles that are being proposed; that the late models did not have a muffler; that if a muffler is required, a reduction of 3-5DB would be estimated; that one of the conditions given by the PZ Commission was that the vehicles have mufflers; that it has been noted that Sussex County does not have a noise ordinance, but there is a section in DNREC's code that limits the noise levels with an exemption for recreational sports and musical activities; that a formula was explained regarding the noise to the nearest residences.

**Public
Hearing/
CU2270
(continued)**

Mr. Hutt stated that the application is to allow outdoor racing and additional classes of racing to occur on a ¼ mile dirt track; that this is a multi-generational tradition; that the pit crews are often family members and friends; that it is a sport that has all ages and genders that participate; that a Conditional Use is the appropriate tool for this; that there are events that are sponsored here; that over \$30,000 has been raised for breast cancer and other causes over the years; that the conditions were reviewed; that Condition E as proposed by the Planning Commission states that there is a 11:00 p.m. end time for Friday and Saturday evenings; that things have to go just right for that to occur; that it is hoped that there can be flexibility to allow additional time until 11:30 p.m. on Friday and Saturday; that the applicant believes that the recommendation from the Commission is appropriate.

Mr. McCarron asked if racing could still occur at this location regardless of today's hearing. Mr. Whitehouse replied that there is a non-conforming use that the applicant can revert to, but it would just limit the vehicles if the Conditional Use were not granted. Mr. McCarron questioned what the restrictions would have on the grandfathered classes that are already in place. He added that the applicant has done a good job on putting conditions on themselves. In addition, what has been proposed and being discussed today is more than what they currently have in place. Mr. Whitehouse added that the restrictions would include all of the vehicles.

Public comments were heard.

Mr. Chris Martinez spoke in favor of the application; that it is a family friendly atmosphere; that it promotes a family atmosphere and gives the youth something to do; that it is way to keep the kids motivated.

Mr. John Jones spoke in favor of the application; that he started racing there in 1978; that his family races there; that there has been famous people that have race there; that the sport keeps growing; that this place needs to stay running and be the best it can be.

Mr. Jason Dean spoke in favor of the application; that he lives 5 miles north of the speedway; that he started racing there in 1993; that he attended before that as a child; that his son races there; that his son has been racing since he was 4 ½ years old; that this is important to him, his son and his friends that race there; that this gives the kids and adults something to do; that he would rather have his son learn values of racing and going to the racetrack rather than being on the wrong side; that this keeps his son out of trouble; that the track is depressed; that it is built in a hole in a borrow pit; that there are walls, woods and barriers that stop the sound and the track operator tries to control the dust; that he asked for the support of the application.

**Public
Hearing/
CU2270
(continued)**

Mr. Wayne Lee spoke in favor of the application; that this is like high school sports; that the kids are involved; that the track is a family-oriented track; that it is a form of sports for kids.

Mr. Howard Mullens spoke in favor of the application; that his family is a three-generation family that has attended the speedway; that his mom was 87 years old and went every night to watch the races; that they do events to raise money for good causes; that they need the support to keep this going.

Mr. Mark Allen spoke in opposition of the application; that he lives about 6,000 feet from the speedway; that he has watched this evolve over the years; that a go-cart track that was built in 1976, well after zoning started; that this is in the middle of a residential community; that the people in the community have complained; that it has been identified as a non-conforming use and the complaints were not heard; that he tried to have a conversation in a neighbors yard and he had to yell to be able to communicate with them; that there are people in the area that have sleeping issues, PTSD, people with small children; that the people in the area have given up; that there are other race tracks that are out there; that there is one in Georgetown and Delmar that have full size automobiles that have been around for many years; that he could not find in the code that the Planning Director could identify this as non-conforming; that it was shut down in 2012; that from 2012 to 2020 there was not an oval track there; that his neighbor played a tape for the Planning Commission and they replied to “turn that mess off”; that he is wondering how it is possible to bring a use such as this in this neighborhood into conformity.

Mr. Whitehouse questioned the period of no activity that was referenced by the prior speaker and requested more clarification from the applicant. Mr. Hutt stated that Mr. Mitchell has owned the track since 2017 so he can only speak from that point forward.

The Public Hearing and public record were closed.

**M 041 25
Amend
Condition
CU2270**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to amend Condition 5E to read “Race events may only occur on Friday, Saturday and Sunday from April 1st through November 30th. At the events, racing may only occur between the hours of 6:00 p.m. until 11:30 p.m. on Friday and Saturday and between the hours of 12:00 p.m. until 9:00 p.m. on Sunday. Practices shall be allowed whenever a race is not occurring but only during the hours of 12:00 p.m. until 9:00 p.m. and shall be limited to one automobile on an outdoor racetrack so no racing occurs”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 042 25
Adopt
Ordinance
No. 3070/
CU2270**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3070 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE AN OUTDOOR RACETRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 35.00 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. This is a use that has existed at this location for many years. It was recognized as an existing, legal nonconforming use by a prior Director of Planning & Zoning in 2010 with limitations.**
- 2. This Conditional use further confirms the legal, nonconformity of the use and establishes appropriate conditions upon the use.**
- 3. Dirt-track racing has a long history in Sussex County on this site and at other locations. Several people testified that they have enjoyed the racing events that occur at this site for years if not decades and that it is a family sport. As a result, it has a benefit for Sussex County residents and visitors.**
- 4. With the conditions imposed by this recommendation of approval, any adverse impacts upon traffic, area roadways or the community will be substantially reduced from what currently exists at the location since there are basically no conditions associated with its legal nonconforming status other than engine size.**
- 5. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to the existing outdoor dirt racetrack and related facilities as shown on the Preliminary Site Plan.**
 - b. All pit areas and parking areas shall be clearly marked on the Final Site Plan and the site itself.**
 - c. The applicant shall comply with all DelDOT entrance and roadway improvement requirements.**
 - d. One lighted sign shall be permitted along the perimeter of the property. It shall not exceed 32 square feet in size. The location of the sign shall be shown on the Final Site Plan. This prohibition shall not apply to sponsor signs on the interior of the racetrack itself.**
 - e. Race events may only occur on Friday, Saturday and Sunday from April 1st through November 30th. At the events, racing may only occur between the hours of 6:00 p.m. until 11:30 p.m. on Friday and Saturday and between the hours of 12:00 p.m. until 9:00 p.m. on Sunday. Practices shall be allowed whenever a race is not occurring but only during the hours of 12:00 p.m. until 9:00 p.m. and shall be limited to one automobile on an outdoor racetrack so no racing occurs.**
 - f. The property and racetrack may be lighted for nighttime use. All of the lighting shall be screened so that it does not shine onto neighboring properties or roadways.**
 - g. All of the racecars using the racetrack shall be operated with**

M 042 25
Adopt
Ordinance
No. 3070/
CU2270
(continued)

- mufflers.
- h. The racetrack shall be operated with appropriate safety and EMS measures in place while racing is underway.**
 - i. Any violation of these conditions shall be grounds for termination of the conditional use.**
 - 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: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 043 25
Allow
Withdraw/
CU2455

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to allow the applicant to withdraw and resubmit a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TIRE AND BRAKE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 10.96 ACRES, MORE OR LESS” and to direct Planning & Zoning to cease the operations there until it is resubmitted.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Ms. Gruenebaum stated that she will miss next Tuesday’s meeting due to eye surgery. Mr. Rieley stated that he will be in Florida next meeting but plans to listen virtually.

M 044 25
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 3:29 p.m.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

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

