

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 23, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 23, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
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 048 18
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of January 16, 2018 were approved by consent.

**Corre-
spondence**

The following correspondence was received:

**Rehoboth Beach Museum, Rehoboth, Beach, Delaware.
RE: Letter in appreciation of grant.**

**People's Place, Milford, Delaware.
RE: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Bobby Horsey commented on the 2018 Comprehensive Land Use Plan.

**M 049 18
Consent
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

**M 049 18
Approve
Consent
Agenda
Items**

- 1. Wastewater Agreement No. 856-11
Sussex County Project No. 81-04
Millville By The Sea – Village 1 (Formerly Canal Plan Phase I)
Millville Expansion of the Bethany Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 1028
Sussex County Project No. 81-04
Apple Arbor
Miller Creek Sanitary Sewer District**

Motion Adopted: 5 Yeas.

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

**Procla-
mation/
Cape
Henlopen**

The Council presented a Proclamation to the Cape Henlopen High School Field Hockey Team upon winning the 2017 DIAA Division I Championship. The team won the title in November capping a 16-2 season.

**Board
Appoint-
ment**

Mr. Lawson reported that the term of Julie Rigby (District 1) on the Board of Assessment Review expires February 2018.

**M 050 18
Reappoint-
ment to
Board of
Assessment
Review**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to reappoint Julie Rigby to the Board of Assessment Review for a term of five years.

Motion Adopted: 5 Yeas.

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

**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, The Woods at Johnson's Corner, a/k/a Fenwick Hamlet, a/k/a Fox Haven – Phase 4 received Substantial Completion effective January 18th.

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

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the

**Public
Hearing/
CDBG
(continued)**

Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County's application will consist of projects in the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA and that the Department has held Public Hearings in all of the municipalities listed and the projects presented represent their requests.

Mr. Whaley reported that, over the past five years, the County and the communities within the County have received over \$7.4 million in Community Development Block Grant and HOME funding and have been able to assist 858 households and over 1,423 residents (including housing rehabilitation, demolition, and sewer and water hook-ups).

Mr. Whaley advised that part of the CDBG requirements is that a status report be given. Mr. Whaley reported on the allocation of the funding during FY2016: approximately \$1.5 million was received in CDBG & HOME funding and 135 low-to-moderate income households received assistance. Mr. Whaley noted that more than 70% of these projects were completed by companies that qualify under Section 3 and/or WBE/MBE/VBE designations.

Mr. Whaley presented a program status update for 2017.

Mr. Whaley reviewed the income guidelines and other requirements to qualify for housing rehabilitation.

Mr. Whaley reported on a new plan implemented this year – a prioritization plan in rural communities.

Mr. Whaley noted that the public hearing on this date is held to collect information to make application for funding.

Mr. Whaley presented a list of the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Municipality Applications:

Blades (Rehabs)	\$ 80,000.00
Bridgeville (Rehabs)	\$ 80,000.00
Ellendale (Rehabs)	\$ 80,000.00
Frankford (Rehabs)	\$ 80,000.00
Georgetown (Rehabs)	\$105,000.00
Laurel (Rehabs)	\$140,000.00
Milford (Rehabs)	\$105,000.00

Public	Milton (Rehabs)	\$105,000.00
Hearing/	Seaford (Rehabs)	\$140,000.00
CDBG	Selbyville (Rehabs)	\$140,000.00
(continued)		

County Application:

Scattered Rehab	\$488,000.00
Scattered Demo:	\$ 40,000.00
Scattered Emergency Rehab:	\$ 78,000.00
Scattered Hookups:	\$ 40,000.00
Handicapped Accessibility	\$ 48,000.00
Cedar Creek	\$ 44,000.00
Concord	\$ 36,000.00
Green Top	\$ 36,000.00
West Clarksville (Rehabs):	\$ 32,000.00
Polly Branch (Rehabs):	\$ 50,000.00
West Rehoboth (Rehabs):	\$ 36,000.00

TOTAL REQUESTED **\$1,983,000.00**

Mr. Whaley noted that the total funding available is \$2,000,000 - \$2,500,000 for Sussex and Kent Counties and that the Delaware State Housing Authority will review the applications and determine how the funding will be awarded.

Mr. Whaley stated that, over the years, the County Council has provided funding for emergency projects: FY2013 - \$220,000; FY2014 - \$250,000; FY2015 - \$300,000; FY2016 - \$100,000; FY2017 - \$150,000; FY2018 - \$175,000 (75% complete). Mr. Whaley reviewed the primary uses for this funding and the number of households assisted.

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, was in attendance to assist with the presentation and presented two proposed Resolutions for the Council's consideration.

Public comments were heard.

Dan Kramer questioned how the City of Milford is handled with the City being partially in both Kent and Sussex counties.

Mr. Whaley responded that Sussex County includes only the south side; however, a dual public hearing is held each year with Sussex County and Kent County governments participating.

There were no additional public comments.

The Public Hearing and public record were closed.

M 051 18 **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt**
Adopt **Resolution No. R 001 18 entitled "RECOGNIZING THE IMPORTANCE**
R 001 18 **OF FAIR HOUSING".**

**M 051 18
(continued)**

Motion Adopted: 5 Yeas.

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

**M 052 18
Adopt
R 002 18**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 002 18 entitled "AUTHORIZATION TO SUBMIT APPLICATIONS" (COMMUNITY DEVELOPMENT BLOCK GRANT)".

Motion Adopted: 5 Yeas.

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

**Sussex
Sports
Center
Foundation
Proposal/
MOU**

Mr. Lawson presented for Council's consideration a Draft Memorandum of Understanding for the Sussex Sports Center Foundation. Mr. Lawson also presented the White Paper submitted by the Foundation, including the Articles of Incorporation and the Bylaws. Mr. Lawson reviewed the Draft MOU, including some proposed changes; he noted that the proposed changes are not substantial.

Discussed during the presentation were proposal terms: property (56 acres) donated to the Sports Center Foundation; deed recorded in Foundation's name; Foundation to construct Sports Center to include 8 grass fields, 3.1 miles of walking/running trail, 3 pickle ball courts, and ancillary facilities including restrooms; property located in the Town of Georgetown; County has the option to take-over the property and facility after Year 10; property deed restricted to remain a public park facility into perpetuity; public-private partnership; approximately 60 % private funding and 40 % public funding; estimated \$4.0 million construction cost; \$2.5 million private funds to be raised; \$1.5 million County loan (Foundation raises and spends \$1.5 million first); County funds made available after \$1.5 million spent; County processes payments after invoices received - \$100,000 increments) Foundation responsible for any expenses after \$3 million; \$1.5 million County loan (50 years @ 0% interest, no payments for first 10 years, lien placed on property, purchase option for \$1 on Year 10 of operations, loan forgiven if County purchases facility for \$1.00, \$37,500/year payments if not purchased, annual financial audits required); Foundation Board responsible for the operations of the facility; County to have two positions on the Foundation Board, Board has 15 members.

Also in attendance for the discussion was Bobby Horsey, Vice President of the Foundation.

Mr. Lawson advised that the next step is to vote on the MOU and to authorize a Contract to be drafted. He explained that the MOU outlines the business terms and that the Contract outlines the legal and financial terms,

Sussex Sports Center Foundation Proposal/ MOU (continued) **codifying the arrangement. The Contract would be drafted by Mr. Moore, if authorized.**

Mr. Vincent questioned the Town of Georgetown's participation and asked that it be made a requirement. Also discussed was DelDOT's commitment (intersection improvements) to the project. Council and staff discussed addendums to be signed by the Town of Georgetown and DelDOT. Mr. Lawson noted that, as with all projects, agency approvals will be required.

M 053 18 Approve MOU/ Sussex Sports Center Foundation **A Motion was made by Mr. Burton, seconded by Mr. Cole, that the Sussex County Council approves a Memorandum of Understanding between Sussex County and the Sussex Sports Center Foundation for the purposes of the design and construction of a sports facility, including the County's loan commitment of \$1.5 million, to the Sussex Sports Center Foundation for the same purposes; and Be It Further Moved, that the Sussex County Council authorizes the County Administrator and County Attorney to draft a legal contract between Sussex County and the Sussex Sports Center Foundation codifying the legal and financial terms of the \$1.5 million loan, as described on this date.**

Motion Adopted: 3 Yeas, 2 Nays.

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

Emergency Shelter Funding **Mrs. Jennings reported that, per Council's direction, she met with Susan Kent of Code Purple Sussex County about shelter funding. Code Purple provides shelters during cold weather months and consists of six main shelters and three overflow shelters. Code Purple sees a real need for emergency funds to keep these shelters open. Mrs. Jennings reported she has identified \$25,000 that can be used as an emergency fund; the requests would be administered by Susan Kent of Code Purple Sussex County through the coordination of the County's Finance Department. The funds will cover costs such as increases in utilities, unexpected building repairs, and increased need in supplies.**

Airport Advisory Committee Appointments **Jim Hickin, Airport Manager, advised that the terms of the members of the Airport Advisory Committee expire every year at the end of December. Mr. Hickin recommended that the Council reappoint the current Committee members.**

M 054 18 Approve Appointments Airport Advisory Committee **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council appoints Guss Croll, Garrett Dernoga, Rick Garner, Larry Kelley, Jeffrey Reed, Mark Ryan, and Richard Wilson to the Delaware Coastal Airport Advisory Committee for 2018.**

Motion Adopted: 5 Yeas.

**Old
Business/
Commercial
Zoning
Ordinance
(continued)**

preserves such things as open space, interconnectivity or setbacks.

2. Remove the language "... but not including major repair work such as motor replacement, body and fender repair or spray painting" from lines 210 and 211 of the ordinance.

The Council held a Public Hearing on the Proposed Ordinance on January 2, 2018 at which time action was deferred and the record was left open for seven (7) days for written comments only (thereafter, staff would have one week to review and consider the comments and report back to Council).

Ms. Cornwell reported that no written comments were received within the seven day timeframe.

Mr. Robertson reviewed some comments made during the Public Hearing.

Council and staff discussed the separation between businesses and residential homes (buffers/fencing), minimum lot sizes, landscape buffers versus fencing, screening the back property line (i.e. screening dumpsters from residential areas), and interconnectivity on some of the major roads.

No action was taken.

**Old
Business/
CU 2075**

Under Old Business, the Council considered Conditional Use No. 2075 filed on behalf of Burton's Pond.

The Planning and Zoning Commission held a Public Hearing on this application on April 6, 2017. On May 11, 2017, the Commission recommended that the application be approved for the following reasons and with the following conditions:

1. This property is currently zoned MR Medium Density Residential District and the proposed project meets the purposes and requirements of the District.
2. This application is for a conditional use in a MR Medium Density Residential District to allow for the construction of townhouses. The Applicant proposes 100 dwelling units on 30.95 acres, located in Indian River Hundred, adjacent to John J. Williams Highway (Route 24) at Sloan Road (County Road 49).
3. This project was previously approved as a MR-RPC by Ordinance No. 1919 (CZ No. 1610) with 102 dwelling units, adopted by County Council on July 31, 2007.
4. The property is in an Environmentally Sensitive Development District Overlay Zone (ESDDOZ).
5. The applicant has submitted the application to PLUS and has responded appropriately to the PLUS comments and provided the Commission with the required information for its consideration.
6. The property contains no wetlands and is not located in a Wellhead Protection Area.

Old
Business/
CU 2075
(continued)

7. **The project is designed to preserve wooded areas and the natural buffer next to the adjacent residential communities. Dwelling units will be adjacent to open space, sidewalks and walking, jogging and bike trails, promoting interconnectivity within the project. The design preserves 19 acres of open space when a grid MR subdivision would preserve significantly less open space.**
8. **The Applicant has proposed 100 dwelling units within the project, which is permissible density of 3.23 units per acre within a MR Medium Density Residential District.**
9. **The project will not adversely affect neighboring or adjacent properties. The project is consistent with existing residential development in the area.**
10. **The proposed project will be served by central water and sewer, in accordance with Federal, State and County requirements.**
11. **Through consultation with DelDOT, the proposed project shall have one (1) entrance on Sloan Road (County Road 49).**
12. **The proposed project will have both active and passive open space.**
13. **The proposed project meets the purposes and standards of the Sussex County Zoning Code and the purposes of the MR Medium Density Residential District.**
14. **This recommendation for approval is subject to the following conditions and stipulations:**
 - A. **There shall be no more than 100 townhouse units within the project.**
 - B. **The Applicant shall create a fee simple townhome community which will be part of the Burton Pond Communities Homeowners Association, possibly through a separate sub-homeowners association, to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas including the Environmental Management Plan for Burton's Pond as stated in the conditions for Burton's Pond Section I.**
 - C. **The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County Unified Sanitary Sewer District North Coastal Planning Area.**
 - D. **The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.**
 - E. **Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and PCS. The Applicant, its successors and assigns shall operate the stormwater management facilities utilizing Best Management Practices (BMP) and Best Available Technologies (BAT). The final site plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**

**Old
Business/
CU 2075
(continued)**

- F. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT. In addition, the relocation of Sloan Road shall be completed within the first phase of the development.**
- G. The recreational amenities in Section II shall be constructed and open to the use by residents upon the issuance of the 50th residential building Certificate of Occupancy for Section II.**
- H. Streetlighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.**
- I. Sidewalks shall be installed on one side of all streets within the project and shall be shown on the Final Site Plan. There shall also be walking, jogging, and bike paths throughout the subdivision as shown on the Preliminary Site Plan.**
- J. The undisturbed forested areas shall be shown on the Final Site Plan.**
- K. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- L. A school bus stop area with parking shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.**
- M. The Applicant shall provide agricultural buffers and wetland buffers, as necessary, in accordance with the applicable regulations. The Agricultural Use Notice shall be included in covenants, conditions, and restrictions or instruments of conveyance.**
- N. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- O. The Developer shall design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with John J. Williams Highway (Route 24) and running East to West along the entire property boundary with the relocated Sloan Road (County Road 49). The Final Site Plan shall contain a landscape plan showing the proposed design and vegetation of all landscape buffer areas.**
- P. The interior street design shall be in accordance with or exceed Sussex County street requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting.**
- Q. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 8:00 a.m. and 1:00 p.m.**
- R. A revised Preliminary Site Plan either depicting or noting these**

Old
Business/
CU 2075
(continued)

- conditions must be submitted to the Sussex County Office of Planning and Zoning.
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

The County Council held a Public Hearing on the Proposed Ordinance on January 2, 2018 at which time action was deferred for additional information regarding the timing of (schedule for) the traffic signal.

Mr. Moore reported that it is not in the County's jurisdiction for the placement of traffic lights nor the timing for the placement of traffic lights and that the Council cannot tell DelDOT nor a developer when to install a traffic light. He advised, however, that if Council decides to do it, he asks that Council not use that as precedence. Mr. Cole stated that he would still like to see this included in any proposed conditions since the road is to be redesigned and realigned and that the Developer has indicated he is willing to include a traffic light.

M 056 18
Amend
Conditions/
CU 2075

A Motion was made by Mr. Burton, seconded by Mr. Cole, to amend Condition 14F, to read as follows: All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT. In addition, the relocation of Sloan Road shall be completed within the first phase of the development. The relocation and improvements to Sloan Road, Route 24 and Hollymount Road to include a traffic signal located at the new intersection of Sloan Road, Route 24 and Hollymount Road is to be completed within the first phase of the development.

Motion Adopted: 5 Yeas.

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

M 057 18
Amend
Conditions/
CU 2075

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to amend Condition 14Q to read as follows: Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 8:00 a.m. and 5:00 p.m.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 058 18
Adopt
Ordinance
No. 2542/
CU 2075**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2542 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (100 TOWNHOUSE UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.95 ACRES, MORE OR LESS” (Conditional Use No. 2075) filed on behalf of Burton’s Pond, LLC (Burton’s Pond Section II), with the following conditions, as amended:

- A. There shall be no more than 100 townhouse units within the project.**
- B. The Applicant shall create a fee simple townhome community which will be part of the Burton Pond Communities Homeowners Association, possibly through a separate sub-homeowners association, to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas including the Environmental Management Plan for Burton’s Pond as stated in the conditions for Burton’s Pond Section I.**
- C. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County Unified Sanitary Sewer District North Coastal Planning Area.**
- D. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.**
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and PCS. The Applicant, its successors and assigns shall operate the stormwater management facilities utilizing Best Management Practices (BMP) and Best Available Technologies (BAT). The final site plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- F. All entrances, intersections, roadway improvements and multi-modal facilities required by DeIDOT shall be completed by the Applicant as required by DeIDOT. In addition, the relocation of Sloan Road shall be completed within the first phase of the development. The relocation and improvements to Sloan Road, Route 24 and Hollymount Road to include a traffic signal located at the new intersection of Sloan Road, Route 24 and Hollymount Road is to be completed within the first phase of the development.**
- G. The recreational amenities in Section II shall be constructed and open to the use by residents upon the issuance of the 50th residential building Certificate of Occupancy for Section II.**
- H. Streetlighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.**
- I. Sidewalks shall be installed on one side of all streets within the project and shall be shown on the Final Site Plan. There shall also be walking,**

**M 058 18
Adopt
Ordinance
No. 2542/
CU 2075
(continued)**

- jogging, and bike paths throughout the subdivision as shown on the Preliminary Site Plan.**
- J. The undisturbed forested areas shall be shown on the Final Site Plan.**
 - K. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - L. A school bus stop area with parking shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.**
 - M. The Applicant shall provide agricultural buffers and wetland buffers, as necessary, in accordance with the applicable regulations. The Agricultural Use Notice shall be included in covenants, conditions, and restrictions or instruments of conveyance.**
 - N. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
 - O. The Developer shall design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with John J. Williams Highway (Route 24) and running East to West along the entire property boundary with the relocated Sloan Road (County Road 49). The Final Site Plan shall contain a landscape plan showing the proposed design and vegetation of all landscape buffer areas.**
 - P. The interior street design shall be in accordance with or exceed Sussex County street requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting.**
 - Q. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 8:00 a.m. and 5:00 p.m.**
 - R. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning.**
 - S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Old
Business/
CZ 1827
and
CU 2098**

Under Old Business, the Council discussed Change of Zone No. 1827 and Conditional Use No. 2098 filed on behalf of Fenwick Commons, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on October 12, 2017. On November 16, 2017, the Commission recommended approval of Change of Zone No. 1827 and Conditional Use

**Old
Business
(continued)**

No. 2098, with conditions.

The County Council held a Public Hearing on these applications on November 14, 2017 at which time action was deferred for further consideration.

**M 059 18
Adopt
Proposed
Ordinance/
CZ 1827**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1827) filed on behalf of Fenwick Commons, LLC.

DENIED

Motion Denied: 3 Nays, 2 Yeas.

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

**M 060 18
Adopt
Proposed
Ordinance/
CU 2098**

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

DENIED

Motion Denied: 5 Nays.

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

**Grant
Request**

Mrs. Jennings presented a grant request for the Council’s consideration.

**M 061 18
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett to give \$150.00 from Mr. Wilson’s Councilmanic Grant Account to the Greenwood Memorial VFW Post Ladies Auxiliary 7478 for convention book.

Motion Adopted: 5 Yeas.

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

**Intro-
duction of
Proposed
Ordinances**

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.0381 ACRES, MORE OR LESS” (Conditional Use No. 2128) filed on behalf of Larry Martin (Tax I.D. No. 532-19.00-12.21) (911 Address: 9534 Shadow Point Lane, Delmar).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MINI-STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.70 ACRES, MORE OR LESS” (Conditional Use No. 2129) filed on behalf of Brian P. Lessard, Lessard Builders, Inc. (Tax I.D. No. 230-7.00-95.00, 96.00, and 97.00) (911 Address: 22754 Argos Corner Road, Lincoln).

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (20 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.3817 ACRES, MORE OR LESS” (Conditional Use No. 2130) filed on behalf of The Evergreen Companies, LLC (Tax I.D. No. 134-13.00-72.00 and 72.01) (911 Address: 30733 Cedar Neck Road, Ocean View).

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY (EXTENSION OF CHANGE OF ZONE NO. 1471) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.236 ACRES, MORE OR LESS” (Change of Zone No. 1850) filed on behalf of Swann Cove West, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

**Stafford
Farms/
Loss Com-
pensation
and Farm
Lease**

Hans Medlarz, County Engineer, presented a Tenant Farmer Loss Compensation of Stafford Farms (Wolfe Neck Regional Wastewater Facility) and a Farm Lease Modification with Stafford Farms (Inland Bays Regional Wastewater Facility).

M 062 18

A Motion was made by Mr. Cole, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that the Sussex County Council approves to pay Stafford Farms, Inc. \$44,835.20, the difference

- M 062 18** **between Farmer Loss Compensation determinations at the Wolfe Neck Wastewater Facility and the past due balance for the Inland Bays Regional Wastewater Facility Farm Lease payment held by the same entity (Stafford Farms, Inc.) and for the approval of modifications to the Inland Bays Regional Wastewater Facility Farm Lease, as presented.**
- Approve Farmer Loss Compensation and Farm Lease (continued)**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**
- M 063 18** **At 12:28 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation and land acquisition.**
- Go Into Executive Session**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**
- Executive Session**
- At 12:30 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation and land acquisition. The Executive Session concluded at 1:25 p.m.**
- M 064 18** **At 1:30 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.**
- Reconvene Regular Session**
- Motion Adopted: 3 Yeas, 2 Absent.**
- Vote by Roll Call: Mr. Arlett, Absent; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Absent;
Mr. Vincent, Yea**
- E/S Action** **There was no action on Executive Session matters.**
- M 065 18** **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to go into Public Hearings.**
- Go Into Public Hearings**
- Motion Adopted: 3 Yeas, 2 Absent.**
- Vote by Roll Call: Mr. Arlett, Absent; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Absent;
Mr. Vincent, Yea**
- Rules** **Mr. Moore reviewed the rules of procedure for public hearings**

Mr. Arlett and Mr. Cole joined the meeting.

**Public
Hearing/
CZ 1839**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS: (Change of Zone No. 1839) filed on behalf of Dale Lomas/Seashore Highway Associates, LLC (Tax I.D. No. 334-4.00-37.04) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on December 21, 2017 at which time action was deferred. On January 11, 2018, the Commission recommended denial.

(See the minutes of the Planning and Zoning Commission dated December 21, 2017 and January 11, 2018.)

Janelle Cornwell, Planning and Zoning Director, presented the application and stated that, since the Commission’s Public Hearing, one letter of support has been received.

An Exhibit Book was previously provided by the Applicant.

Mark Davidson of Pennoni Associates, Inc. was present representing the Applicant, Dale Lomas. Mr. Davidson stated that the subject property has been owned by Seashore Highway Associates, LLC since 2016 and is immediately adjacent to a parcel also owned by Seashore Highway Associates, LLC and is currently zoned CR-1 Commercial Residential; that the proposed rezoning and adjacent existing CR-1 commercially zoned parcel are in the immediate vicinity of other C-1 Commercial and in the vicinity of other commercial uses; that the property abuts Penn Central Railroad to the north and US Route 9 to the south; that the existing land use on the existing commercially zoned property is Builders Supply of Delmarva and they are looking to expand their facility and need approximately 6 acres in order to stay at their current location; that this is not spot zoning; that the property is not suitable for agricultural or residential use; that water and sewer service is planned; that an onsite system or holding tank will be used for sewer until sewer service is provided; and that there would be one entrance to the combined two parcels.

Mr. Davidson commented on the application’s compliance with the Comprehensive Land Use Plan, the Zoning Ordinance, and the Strategies for State Policies and Spending Map.

Public comments were heard.

**Public
Hearing/
CZ 1839
(continued)**

There were no comments in support of the application.

Jim Griffin, owner of land across Route 9 (on the south side of Route 9) from the subject property, spoke in opposition to the application. Mr. Griffin stated that he is joined in opposition by a number of people in the area and he submitted into the record a petition containing 43 signatures in opposition to the application. Mr. Griffin stated that the only commercial use in the area on the south side of Route 9 is the Habitat ReStore; that the vast majority of the uses in the immediate area are residential; that Builder's Supply is a regional business and not a local business and, therefore, the expansion would not only serve the immediate area; that the area is not a designated growth area; that sewer would not be planned within the next five years; that approval of this rezoning would give the Applicant 8 acres of commercial land and any large commercial complex could be constructed with a more intensive use; and that traffic is already a problem along the Route 9 Corridor. Mr. Griffin commented on the application's non-compliance with the Comprehensive Land Use Plan.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 066 18
Defer
Action/
CZ 1839**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to defer action on Change of Zone No. 1839 filed on behalf of Dale Lomas/Seashore Highway Associates, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1836**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 8.00 ACRES, MORE OR LESS" (Change of Zone No. 1836) filed on behalf of Softball World, LLC (Tax I.D. No. 135-15.00-82.00 (portion of) (911 Address: 22518 Lewes Georgetown Highway, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on December 14, 2017 at which time action was deferred. On December 21, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated December 14 and 21, 2017.)

Janelle Cornwell, Planning and Zoning Director, presented the application. An Exhibit Book was previously provided by the Applicant.

**Public
Hearing/
CZ 1836
(continued)**

Mark Davidson of Pennoni Associates, Inc. was present on behalf of the application, Softball World / Sports at the Beach, with D.J. Hughes of Davis, Bowen & Friedel. They stated that this is an application for the rezoning of lands on a portion of AR-1 Agricultural Residential District with a Conditional Use for a commercial baseball/softball park with supporting recreational activity areas located on 87.52 acres, more or less; that the property is currently connected to the Town of Georgetown sanitary sewer system; that the site will connect to the Town of Georgetown for both domestic and fire suppression water; that annexation to the Town of Georgetown is not possible; that at this time, a Traffic Impact Study is warranted if the rezoning is approved; that the Applicant will update the existing signal analysis that was prepared in 2016 by DelDOT; that an 8 acre commercial portion (along the front of the property) is proposed that would complement and support existing uses; that a three-story, 90 room, hotel and restaurant are proposed; that a convenience store is also planned in the future; and that the proposed uses will be open to the public. Mr. Davidson discussed the history of the property, the restriction on a portion of the land due to the expansion of the airport runway which eliminated the planned parent dormitories, thereby resulting in the need for a hotel on the site. Mr. Davidson commented on the benefits of having a hotel and restaurant on site. Mr. Davidson reviewed other commercial uses in the area, and discussed the economic benefit of the proposal.

Mr. Davidson commented on the application's compliance with the Comprehensive Land Use Plan, the Zoning Ordinance, and the Strategies for State Policies and Spending Map.

Mr. Hughes commented on traffic matters and discussed submissions to be made to DelDOT and anticipated DelDOT requirements, improvements to be paid for by the Developer, easements, intersections, and a bike lane.

Public comments were heard.

Tommy Cooper with Cooper Realty Associates spoke in support of the application. Mr. Cooper discussed the economic impact of the project, commented that tourism is the lifeblood of Sussex County, and stated that the proceeds of the sale of the land is earmarked for improvements to the programs and additional programs onsite.

Mr. Cooper read a letter into the record from Scott Thomas, Executive Director of Southern Delaware Tourism, in support of the proposal.

Three owners of properties on Park Avenue spoke in opposition to the application. They commented on the impact of commercial growth and traffic and accidents; stated that the area is primarily agricultural and residential; stated that the proposed use would not be beneficial to the area

**Public
Hearing/
CZ 1836
(continued)**

and is not compatible with the area; and stated that a four-story building should not be located on an airport runway approach.

There were no additional public comments.

The Public Hearing and public record were closed.

Mr. Cole suggested that action be deferred for the purpose of obtaining information from the County's Airport Manager regarding the proposed hotel in the flight path of the Airport.

**M 067 18
Defer
Action/
CZ 1836**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action on Change of Zone No. 1836 filed on behalf of Softball World, LLC for the purpose of requesting a report from the County's Airport Director.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1837**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 16.211147 ACRES, MORE OR LESS" (Change of Zone No. 1837) filed on behalf of ABC Woodlands, LLC (Tax I.D. No. 234-23.00-273.01, 234-23.00-273.02, and 234-23.00-273.03) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on December 14, 2017 at which time action was deferred. On December 21, 2017 the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated December 14 and 21, 2017.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

An Exhibit Book was previously provided by the Applicant.

Mark Davidson of Pennoni Associates, Inc. was present on behalf of the application, with the Applicant, Charles Eggleston. Mr. Davidson stated that the proposed rezoning to CR-1 is adjacent to existing C-1 Commercial parcels; that other Commercial and B-1 Neighborhood Business parcels are in the area; and that a Traffic Impact Study (TIS) was not required as a part of this rezoning application but when a development plan is considered

**Public
Hearing/
CZ 1837
(continued)**

for the property, a TIS may be required; that County sewer is available; that the area is highly commercial; and that the proposed rezoning is consistent with surrounding zonings and uses.

Mr. Davidson commented on the application's compliance with the Comprehensive Land Use Plan, the Zoning Ordinance, and the Strategies for State Policies and Spending Map.

There were no public comments.

The Public Hearing and public record were closed.

**M 068 18
Adopt
Ordinance
No. 2543/
CZ 1837**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2543 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 16.211147 ACRES, MORE OR LESS" (Change of Zone No. 1837) filed on behalf of ABC Woodlands, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 069 18
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 3:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

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