

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 28, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 28, 2020, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 033 20  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Minutes**

The minutes of January 7 and 14, 2020 were approved by consent.

**Corre-  
spondence**

Mr. Moore reported on correspondence received from the following: A Wave of Healthy Meals, The ARK Educational Resource Center, Survivors of Abuse in Recovery, and Catholic Charities.

**Public  
Comments**

A public comment period was held and the following spoke: Paul Reiger, Dan Kramer, Keith Steck and DJ Hughes.

**DEC Check  
Presentation**

Bill Andrew, President & CEO, Delaware Electric Cooperative, presented a check to the Sussex County Council representing a capital credit allocation.

**Adminis-  
trator's  
Report**

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

**1. Delaware State Police Activity Report**

The Delaware State Police year-to-date activity report for December 2019 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In

**Administrator's  
Report  
(continued)**

addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of December.

**2. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, Coastal Club – Land Bay 6 – Phase B (Construction Record) and Bishop's Landing (formerly Dove Landing) – Phase 1D received Substantial Completion effective January 22<sup>nd</sup> and January 23<sup>rd</sup>, respectively.

**3. Henlopen Transportation Improvement District**

The Delaware Department of Transportation will host a public workshop on the Henlopen Transportation Improvement District (TID) on Wednesday, February 5, 2020 at the Lewes Fire Department – Station 2 in Nassau. The address is 32198 Janice Road, Lewes, Delaware. The workshop will run from 4:00 pm – 7:00 pm and offers the public and interested parties the opportunity to review and comment on the proposed Henlopen TID.

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

**Grant  
Requests**

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

**M 034 20  
Council-  
manic  
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$500.00 (\$400.00 from Mr. Vincent's Councilmanic Grant Account and \$100.00 from Mr. Wilson's Councilmanic Grant Account) to Eastern Shore AFRAM Festival for the MLK Day of Celebration.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 035 20  
Council-  
manic  
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$2,000.00 from Mr. Rieley's Councilmanic Grant Account to the Greater Millsboro Chamber of Commerce for the Stars & Stripes Celebration.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 036 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$1,500.00 (\$750.00 each from Mr. Hudson's and Mr. Burton's Councilmanic Grant Accounts) to the Cape Henlopen Educational Foundation for the Teacher Grant Program.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Introduction  
of Proposed  
Ordinances**

**Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (200 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 50.62 ACRES, MORE OR LESS" (Conditional Use No. 2206) filed on behalf of Linder & Company, Inc. (Evans Farm) (Tax I.D. No. 134-12.00-74.00) (911 Address: 31434 Railway Road, Ocean View.**

**Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE CONSTRUCTION BUSINESS AND FOR OUTDOOR STORAGE OF CONSTRUCTION MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.00 ACRES, MORE OR LESS" (Conditional Use No. 2220) filed on behalf of Sussex Land Company (Tax I.D. No. 230-20.00-9.09) (911 Address: 11412 Holly Tree Road, Lincoln).**

**Mr. Rieley 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 B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.06 ACRES, MORE OR LESS" (Change of Zone No. 1914) filed on behalf of Ronald E. and M. Candice Gray (Tax I.D. No. 134-15.00-20.06) (911 Address: Not Available).**

**Mr. Rieley 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 B-3 BUSINESS RESEARCH DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.15 ACRES, MORE OR LESS" (Change of Zone No. 1915) filed on behalf of Fisher's Popcorn Fenwick, LLC (Tax I.D. No. 533-11.00-78.04) (911 Address: Not Available).**

**Introduction  
of Proposed  
Ordinances  
(continued)**

**Mr. Burton 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-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS” (Change of Zone No. 1916) filed on behalf of Alice P. Robinson, Trustee (Tax I.D. No. 235-23.00-54.01, 54.02, and 54.05) (911 Address: Not Available).**

**Mr. Rieley 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-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.504 ACRE, MORE OR LESS” (Change of Zone No. 1917) filed on behalf of Iacchetta Development Corporation (Tax I.D. No. 533-18.00-28.01) (911 Address: 33175 Lighthouse Road, Selbyville).**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.10 ACRES, MORE OR LESS” (Change of Zone No. 1918) filed on behalf of Mark A. Casey (Tax I.D. No. 234-33.00-55.00) (911 Address: 28517 Warwick Road, Millsboro).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**M 037 20  
Recess**

**At 10:21 a.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to recess until 10:30 a.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 038 20  
Reconvene**

**At 10:30 a.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to reconvene.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Rules**

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

**Public Hearing/  
MOU  
with  
DelDOT**

**At 10:30 a.m., a Public Hearing was held on the Memorandum of Understanding (MOU) between Sussex County and DelDOT regarding the process of land use applications.**

**The Planning and Zoning Commission held a Public Hearing on the MOU on December 12, 2019 at which time the record was left open and it was announced that the public hearing would be continued at the January 9, 2020 meeting to allow any additional speakers an opportunity to speak before the Commission. On January 9, 2020, at the conclusion of the public hearing, the public hearing and public record were closed.**

**Jamie Whitehouse, Planning and Zoning Manager, reported on the comments received: twelve (12) comments were received and circulated previously; an additional four (4) comments were received and circulated on this date.**

**Vince Robertson, Assistant County Attorney, stated that 9 Del.C §6962 requires a MOU and requires Sussex County to establish a traffic level of service suitable to the County and DelDOT. He stated that it is a MOU on the process and coordination of land use between Sussex County and DelDOT which will improve communication between the County and DelDOT. Mr. Robertson clarified that the MOU is not a Sussex County Code change nor is it a rewrite of DelDOT's regulations. Mr. Robertson noted that the previous version of the MOU dates back to 1988.**

**Mr. Robertson and Mark Cote, DelDOT's Assistant Director of Development Coordination, were present and provided an overview of the background of the MOU and what was included within it. Also reviewed was a red-lined version of the MOU, which represents the recommendation of the Planning and Zoning Commission.**

**Public comments were heard and the following people spoke: Dan Kramer, Bobby Horsey, Paul Reiger, Betty Tustin of The Traffic Group, Robert Tunnell III, DJ Hughes, Rich Borasso of SARG, and David Hutt. They commented on the document and made recommendations for amending the document and/or rewriting the document. They commented on the phasing plan, definitions, the process, and the reorganization of the document for clarity, and commented on the authority of the County and DelDOT.**

**There were no additional comments.**

**The public record and public hearing were closed.**

**M 039 20  
Defer Action  
on MOU**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to defer action on the "Memorandum of Understanding (MOU) between Sussex County and DelDOT regarding the process of land use applications".**

**M 039 20  
(continued)**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 040 20  
To Into  
Executive  
Session**

**At 12:56 p.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session to discuss matters relating to personnel.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 1:00 p.m., an Executive Session was held in the Basement Caucus Room to discuss matters relating to personnel. The Executive Session concluded at 1:30 p.m.**

**M 041 20  
Reconvene  
Regular  
Session**

**At 1:35 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Planning  
and Zoning  
Director  
Vacancy**

**Mr. Lawson stated that given the current vacancy in the Planning and Zoning Office and the position of the Planning and Zoning Director, it would be appropriate for Council to make a Motion appointing an Acting Planning and Zoning Director.**

**M 042 20  
Approve  
Appoint-  
ment of  
Jamie  
Whitehouse**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the appointment of Mr. Jamie Whitehouse to the position of Acting Planning and Zoning Director until such time as the County Council selects and appoints the Planning and Zoning Director.**

**Motion Adopted: 4 Yeas, 1 Absent.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Rules**

**Mr. Moore read the rules of procedure for zoning hearings.**

**Mr. Wilson joined the meeting.**

**Public  
Hearing/  
CU 2199**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS” (Conditional Use No. 2199) filed on behalf of OA-Rehoboth, LLC (Tax I.D. No. 334-12.00-127.01 and 127.10) (911 Address: Not Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2019 at which time action was deferred. On January 9, 2020, the Commission recommended approval, with conditions.**

**(See the minutes of the Planning and Zoning Commission dated December 12, 2019 and January 9, 2020.)**

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

**The Council found that Jim Fuqua, Attorney, was present on behalf of the Applicant with Preston Schell, member of OA – Rehoboth, LLC, and Zac Crouch of Davis, Bowen and Friedel. They discussed the Applicant’s proposal to develop a residential rental apartment complex containing 224 units (7 buildings – 32 units each) on a parcel of land located between Route 24 and Old Landing Road behind the Rehoboth Mall on the west side of Route 1 and stated that the land is being purchased from the Herola Family, LLC; that the project’s location is in the Investment Level 2 Area; that central water will be provided by Tidewater Utilities; that central sewer will be provided by Sussex County; that the site is an undeveloped “infill” parcel predominately surrounded by commercial uses and commercial zoned land with residential uses to the south; that no additional residential development of this property would be permitted; that there are two partially constructed roads bordering the site, one of which is a private access road that will run from the Rehoboth Mall access road from Route 24 to the connector road and the connector road to the Beebe Healthcare Campus which currently stops at just beyond the campus; that the connector road is planned to extend all the way to Old Landing Road; that this new alignment for the connector road will have less of an impact on the Sterling Crossing development; that the Developer will work with DelDOT regarding alignment to Old Landing Road and other off-site improvements that may be required; that in lieu of a Traffic Impact Study (TIS), the Developer will pay an Area-Wide Study Fee; that there is a need for this proposed project in the area as there is a need for workforce housing; that the proposed project is located in an area defined by the Delaware State Housing Authority; and that the project is in accordance with the Sussex County Zoning Ordinance and the 2019 Comprehensive Plan.**

**Public  
Hearing/  
CU 2199  
(continued)**

**Mr. Fuqua asked that Condition G recommended by the Planning and Zoning Commission be changed from “Recreational amenities, including a community clubhouse, outdoor swimming pool, playground, and enclosed dog park shall be completed prior to the issuance of a building permit for the 4th multi-family building.” to read as follows “Recreational amenities, including a community clubhouse, outdoor swimming pool, playground and enclosed dog park, shall be completed prior to the issuance of a Certificate of Occupancy for the third multi-family building”.**

**Public comments were heard.**

**Mr. Moore reported that a letter was submitted by Howard Gorrell and Mr. Moore summarized the letter.**

**Kathleen Baker of Sterling Crossing spoke on her own behalf and on behalf of other members of the community in support of the application.**

**There were no public comments in opposition to the application.**

**The Public Hearing and public record were closed.**

**M 043 20  
Revise  
Condition  
G/  
CU 2199**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to revise Condition G to read as follows: “Recreational amenities, including a community clubhouse, outdoor swimming pool, playground and enclosed dog park, shall be completed prior to the issuance of a Certificate of Occupancy for the third multi-family building”.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 044 20  
Adopt  
Ordinance  
No. 2702/  
CU 2199**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2702 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS” (Conditional Use No. 2199) filed on behalf of OA-Rehoboth, LLC, with the following conditions, as amended:**

- A. The maximum of number of residential apartment units shall not exceed 224 units located in no more than 7 buildings.**
- B. All entrances, intersections, interconnections, roadways, and multi-modal improvements required by DeIDOT shall be completed in accordance with DeIDOT’s requirements.**



**M 044 20  
Adopt  
Ordinance  
No. 2702/  
CU 2199  
(continued)**

- C. The Applicant shall dedicate land and contribute to the cost of a DelDOT planned connector road from Route 24 to Old Landing Road.**
- D. The development shall be served as part of a Sussex County Sanitary Sewer District. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- E. The development shall be served by central water.**
- F. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner which is consistent with Best Management Practices.**
- G. Recreational amenities, including a community clubhouse, outdoor swimming pool, playground and enclosed dog park, shall be completed prior to the issuance of a Certificate of Occupancy for the third multi-family building.**
- H. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- I. If required by the school district, the location for a school bus shelter shall be coordinated with the local school district's transportation manager. The location of the bus stop shelter shall be shown on the Final Site Plan.**
- J. No outdoor construction activities or deliveries of dirt, fill, or similar material shall occur at the site except between the hours of 7:30 a.m. through 7:30 p.m. Monday through Friday and between 8:00 a.m. through 5:00 p.m. on Saturdays. There shall be no construction, site work, grading, or deliveries at the site on Sundays.**
- K. The design of interior drives shall meet or exceed Sussex County road design standards and requirements.**
- L. The use shall comply with all Sussex County parking requirements.**
- M. One lighted entrance sign, not to exceed 32 square feet per side, shall be permitted.**
- N. Space in the community clubhouse or in 1 unit shall be permitted as an on-site management office.**
- O. The Applicant or its assigns shall be responsible for the maintenance of interior drives, parking areas, buildings, buffers, stormwater management, recreational amenities, and all open space.**
- P. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning. The staff shall approve the Revised Preliminary Site Plan upon confirmation that the conditions of approval have been depicted or noted on it.**
- Q. 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.**
- R. The Final Site Plan shall include a landscape plan for all buffer areas showing all the landscaping and vegetation to be included in the buffer areas.**
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**M 044 20  
(continued)**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ 1900**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 16.1 ACRES, MORE OR LESS” (Change of Zone No. 1900) filed on behalf of Michael P. Justice, Trustee (Tax I.D. No. 134-16.00-51.00) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2019 at which time the Commission deferred action. On January 9, 2020, the Commission recommended approval with conditions.**

**(See the minutes of the Planning and Zoning Commission dated December 12, 2019 and January 9, 2020.)**

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

**The Council found that John Sergovic, Attorney, was present on behalf of the application with the Applicant, Michael P. Justice, and Ken Christenbury with Axiom Engineering. They discussed the proposed use of the property for the Evergreen Residential Planned Community, a single-family 45-unit development. Mr. Christenbury stated that they have submitted a revised plan showing amendments requested by the Planning and Zoning Commission. Based on input at the Planning and Zoning Commission meeting, the prior design to clear the existing property line ditches has been replaced by bypass pipes directed toward the low-lying areas on the property line. In addition to the bypass pipes, a cul-de-sac has been added to the northeast corner of the site. The addition of the cul-de-sac has adjusted the northern road away from the western property line and allowed for the retention of a forested buffer not included in the prior plan. They stated that this is an infill project; that the project property abuts several residential subdivisions; that they are proposing 2.82 dwelling units per acre; that the project property is located in the middle of an area zoned GR with the exception of one commercial property to the south; that the proposed project is in character with the surrounding properties and densities; that they proposed to clear the ditches, however, area residents did not want the ditches cleared nor the trees removed and therefore, they came up with the new plan and they reviewed the amendments to the original plan; that no Traffic Impact Study was required; and that water is**

**Public  
Hearing/  
CZ 1900  
(continued)**

available from Tidewater and sewer service is available from Sussex County; and that this application is in accordance with the 2019 Comprehensive Land Use Plan.

**Public comments were heard.**

Steve Maternick of Silver Woods spoke in support of the application. He referenced flooding in the area due to heavy rains and the lack of drainage in the area and stated that he is in support of the Applicant's amended plan; that the stormwater management plan for the application will help alleviate some drainage problems; that he commends the Applicant for working with him and another neighbor to rectify some of the design issues; and that his only concern is the ditch that goes to Millers Creek which has not been maintained and he hopes that any future plans would make sure that the homeowners in the Plantation Park development would not be allowed to cause any restricting of the drainage that occurs.

**There were no comments in opposition to the application.**

**The public record and Public Hearing were closed.**

Mr. Hudson stated that he would like to defer action on Change of Zone No. 1900 to allow time to develop wording regarding granting an easement to adjoining land owners. Mr. Rieley stated that he would like to defer action for two weeks to allow time for further consideration.

**M 045 20  
Defer  
Action/  
CZ 1900**

**A Motion was made by Mr. Rieley, seconded by Mr. Burton, to defer action on Change of Zone No. 1900 filed on behalf of Michael P. Justice, Trustee.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ 1901  
CU 2200**

**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 MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.927 ACRES, MORE OR LESS" (Change of Zone No. 1901) and the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED AND LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY CONTAINING 0.927 ACRES, MORE OR LESS" (Conditional Use No. 2200) filed on behalf of**

**Public  
Hearing/  
CZ 1901  
CU 2200  
(continued)**

**Mary and Victor Rico.**

**The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2019 at which time action was deferred. On January 9, 2019, the Commission recommended denial of the Change of Zone and the Conditional Use.**

**(See the minutes of the Planning and Zoning Commission dated December 12, 2019 and January 9, 2020.)**

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

**It was noted that the four existing buildings that are on the property have been there for a long time and are considered to be non-conforming; that at one point, two of the buildings were purchased and converted into multiple dwelling units within those buildings; that there are no permits for that conversion; that these applications are in response to a violation on the property; and that the application seeks to address that violation.**

**The Council found that Tim Willard, Attorney, was present with the Applicant, Mary Rico. They commented on the shape and location of the lot and stated that Sunset Lane was an old fishing village and as it evolved, this lot became a parcel with 4 houses located on it; that in the year 2000, the parcel was condominiumized; that the Ricos own Units 1 and 2 on the parcel; that the 2 units/houses went up for auction and the Ricos purchased them and rehabilitated the houses; that sewer service is available to the units; that both units were efficiencies and had electrical hook-ups for stoves; that the footprint of the houses has not changed; that the Applicant made efforts to be in compliance by calling the County for sewer hook-ups and for addresses, and they called the County and was told an inspection was not necessary; that they have letters of support from the tenants; that the Condominium owns Sunset Lane but the other residents along the road have access to it through an easement; that they have done a nice rehabilitation of the small apartments; that they question where the current tenants will go if this application is not approved; that the application is for a MR rezoning since that is the only way the Conditional Use could be applied for; that the Conditional Use would limit the uses on the property; that the County's Comprehensive Plan encourages the rehabilitation of houses to make them affordable housing; that MR zoning is appropriate and is consistent with the Comprehensive Plan; and that all four unit owners of the Condominium have signed the application, which was required. Mr. Willard and Mrs. Rico showed and described before and after pictures of the two units. Mr. Willard stated that Commissioner Stevenson's Motion to deny the applications is legally flawed.**

**Public comments were heard.**

**There were no public comments in support of the application.**

**Public  
Hearing  
(continued)**

**Public comments were heard in opposition to the application. Tom O’Neill and Larry Fisher, both residents of Sunset Lane, spoke in opposition to the applications. They gave a brief overview of the history of the houses and the motel on Sunset Lane. They stated that the Applicant rehabilitated the units and made them into rental units without following proper procedures and with no permits; that the proposed use of this property (Units 1 and 2) will negatively impact property values; that there is a health concern as the cesspool on the property overflows and is not pumped out regularly as the Applicant states; that water quality is a concern; and that the residents, not the condominium association, pay for the maintenance of the road.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 046 20  
Defer  
Action on  
CZ 1901**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to defer action on Change of Zone No. 1901 (Conditional Use No. 2200) filed on behalf of Mary and Victor Rico.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 047 20  
Defer  
Action on  
CU 2200**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to defer action on Conditional Use No. 2200 filed on behalf of Mary and Victor Rico.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 048 20  
Adjourn**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to adjourn at 5:00 p.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, 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.}*