

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 1, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 1, 2022, at 10:00 a.m., in Council Chambers, with the following present:

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

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

Call to Order

Mr. Vincent called the meeting to order.

**M 042 22
Approve
Agenda**

Mr. Lawson announced CU2279 filed behalf of Ron Sutton for the 1:30 Public Hearings, has requested Council withdraw that Conditional Use request. He added that he would not amend the agenda, Mr. Whitehouse will go over the information received. A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda, as presented.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of the January 25, 2022 were approved by consensus.

**Corres-
pondence**

Mr. Moore read correspondence received from the following: The Harry K. Foundation and Cancer Support Community Delaware.

**Public
Comment**

There were no public comments.

**Caroling on
the Circle
Food Drive
Recognition**

Mr. Lawson recognized those that participated in this effort and thanked all of those that volunteered and contributed to the food drive event.

**Adminis-
trator's**

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

The Delaware State Police year-to-date activity report for December 2021 is

**Report
(continued)** attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 189 troopers assigned to Sussex County for the month of December.

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

**Airport
Advisory
Committee
Member
Appoint-
ments** Mr. Bob Bryant, Airport Manager, presented for Council's approval the Delaware Coastal Airport Advisory Committee members for the Year 2022: Garrett Dernoga, Larry Kelley, Jeff Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas, and Ray Hopkins. Mr. Bryant noted that the Committee members also include one County Council member, the County Administrator, the County Engineer, and the Director of Economic Development.

**M 043 22
Approve
Reappoint-
ments/
Airport
Advisory
Committee** A Motion was made by Mr. Hudson seconded by Mr. Rieley, that the Sussex County Council approve Garrett Dernoga, Larry Kelley, Jeff Reed, Rick Garner, Ezra Richards, Mark Ryan, Scott Thomas and Ray Hopkins to the Delaware Coastal Airport Advisory Committee for 2022.

Motion Adopted: 5 Yeas.

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

**Pension
Committee
Appoint-
ment** Mrs. Jennings presented for Council's approval to appoint a new member to the pension committee. She further explained that the committee is made up of seven members; County Finance Director, County Administrator, County Human Resources Director, Two Sussex County community members, a current Sussex County employee, and a retired Sussex County employee, who currently receives a County pension. The members are appointed for a four-year term.

Mrs. Jennings noted that Mr. David Baker who served on the committee in the capacity as a current pensioner has resigned due to his recent appointment as USDA's Rural Development Director for Delaware and Maryland.

Mrs. Jennings explained that the role of the current County pensioner on the committee is primarily to be the eyes and ears of the current pensioners. Therefore, she wanted to recommend someone that she knows is well respected by the current and future pensioners. Mrs. Jennings is recommending for Council's approval Ms. Robin Griffith as Mr. Baker's replacement.

**M 044 22
Pension** A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to appoint Ms. Robin Griffith to the County Pension Committee for a four-year term.

**Committee
Appointment
(continued)**

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Rules

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

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of 2022 Community Development Block Grant application which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) comes from the U.S. Department of Housing & Urban Development (or HUD) and is allocated to Sussex and Kent Counties through the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA. DSHA governs the grant process, and through their Consolidated Plan, lists the activities eligible for receipt of funding. Eligible activities include housing rehabilitation, sewer and water hookups, demolition, and infrastructure projects.

Mrs. Nauman explained that historically, most of the funding is used for owner-occupied housing rehabilitation to maintain the exiting housing stock. To receive assistance, the home must be owner-occupied/primary residence, low or moderate-income, insured, and the County taxes and utilities must be current. A lien is placed on the property based on the funding amount provided to protect the investment. For amounts provided under \$5,000, no lien is placed, less than \$15,000, a 5-year, 0%, pro-rata payback and for \$15,000 - \$40,000, a 10-year, 0% interest, pro-rata payback.

Mrs. Nauman reported that all projects applied for must benefit persons of low and moderate income, defined as households with incomes at or below 80% of the Area Median Income for Sussex County, as set by HUD annually.

Mrs. Nauman reviewed the FY19 Close-Out Statistics; total program funding was \$1,771,485 (CDBG & HOME). There were 154 households and 267 people that were provided with assistance during that year.

Mrs. Nauman then provided a FY20 Update; total program funding was \$1,910,142 (CDBG & HOME). As of 12/30/21, 91% CDBG funds and 57% of HOME funds have been spent. There were 114 households and 201 people that were provided with assistance during that year.

Mrs. Nauman shared that there have been substantial funding increases over the past few years; a 7.8% increase from FY19 to FY20 and 12.8% increase from FY20 to FY21. She added that County Council provided \$300,000 to assist with emergency repairs. In addition, FY21 projects are underway, as of December 30, 2021, 12% of CDBG and 4% of HOME

**Public
Hearing/
CDBG
(continued)**

money has been spent.

Mr. Mike Jones, Rehabilitation Program Coordinator provided an update of the past year. Mr. Jones discussed the challenges with finding new contractors, product delays, and product cost increases.

Mr. Jones shared pictures showing the work that has been completed through the program.

Mrs. Nauman presented information about the FY22 Grant Application process. The process includes public hearings, waiting list issues and rural communities' selection. Mrs. Nauman noted the target areas that are being requested to include Municipalities and Unincorporated/Countywide areas. The funds requested for each Municipality and Unincorporated areas were then shared. Mrs. Nauman explained that these funds are based on the waiting list numbers, the demand of the Town and an average of what has been spent in years past to make a dent in the waiting list. For the FY22 CDBG Grant Application, the following amounts are being requested: \$1,793,000.00 for total program cost, \$250,000.00 for CDBG Administration Funding, \$315,190.00 for Local Administration Match; making the total program cost \$2,358,190.00.

Mrs. Nauman provided an update of the emergency funds provided by County Council. The primary uses for these funds are to assist households with no running water, heat, in need of handicap accessibility, leaking roof, electrical issues or plumbing issues. She added that prioritization is given to individuals with disabilities, 65+ years of age, at or below 30% AMI and Veterans. Mrs. Nauman shared a breakdown of the emergency repairs that have been completed over the years and number of households those funds have assisted.

Mrs. Green noted that the Town of Greenwood was not included on the list of Municipalities. She asked if that meant there was not a need, or the department does not have a contact person for the Town of Greenwood. Mrs. Nauman explained that each year, letters go out to each municipality about the program. The department then seeks the town's request to hold a public hearing during one of their regularly scheduled meetings that is hosted by her department. The Town of Greenwood did not seek their assistance this year for the funding. Mrs. Nauman added that staff does follow up, however, there was not a request received from the Town of Greenwood for funding this year.

Public Comments were then heard.

Ms. Patricia Galu, 141 October Gloria Ave, Ocean View came forward to speak. Mr. Galu shared that she is the Head of the St. Vincent DePaul Society out of Bethany Beach as well as the Vice-President of the Council which covers all of Sussex County. She commended Mrs. Nauman and her staff for doing an incredible job with a small staff that works hard to get to

**Public
Hearing/
CDBG
(continued)**

those people that are the waiting list. She added that she is aware of several families in the Diamond Acres area that have a tremendous need. There are many families that are living with firewood as their only source of heat and are unable to afford to heat their homes. Ms. Galu shared that she believes this is a very essential program.

The Public Hearing and public record were closed.

Mrs. Nauman presented Resolution R 002 22 entitled “Affirmatively Furthering Fair Housing” for Council’s consideration.

**M 045 22
Adopt
R 002 22**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Resolution No. R 002 22 entitled “Affirmatively Furthering Fair Housing”.

Motion Adopted: 5 Yeas.

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

Mrs. Nauman presented Resolution R 003 22 entitled “Authorization to Submit Applications” for Council’s consideration.

**M 046 22
Adopt
R 003 22**

A Motion was made by Mr. Rieley, seconded by Mrs. Green to Adopt Resolution No. R 003 22 entitled “Authorization to Submit Applications”.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinance**

Mr. Moore presented a Proposed Ordinance relating to the Election Districts and Adopting New Councilmanic Election Districts. Mr. Moore shared pictures of the map outlining the Proposed Election Districts. Mr. Moore pointed out that they have not changed since they were presented during the December meeting. Mr. Moore explained that he has prepared the descriptions in three separate ways. The first legal description for each district uses the information that is provided by the software. The second way uses what the State Legislature use which is a Census Block Description. The third method are links to the individual maps to see roadways, etc. in each district.

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO REPEAL ORDINANCE NO. 2227, AS AMENDED BY ORDINANCE NO. 2243, AND CHAPTER 11, §§ 11-1 THROUGH 11-5 OF THE SUSSEX COUNTY CODE, RELATING TO COUNCILMANIC ELECTION DISTRICTS AND ADOPTING NEW COUNCILMANIC ELECTION DISTRICTS.”

**Old
Business/
CZ1948**

Mr. Jamie Whitehouse, Director of Planning and Zoning came forward to present the information. Mr. Whitehouse reminded Council that this item was presented at the regular meeting held on January 25, 2022. At the conclusion of that meeting, Council deferred action on the Application for further consideration.

Mr. Schaeffer pointed out that the Planning Commission in their most recent recommendation has reworded their comments in Paragraph 15. He would like to ensure that any responsibility of the HOA to install a gate or key fob system at the top of their access point is removed. It was agreed that item was taken care of in the meeting minutes of the Planning and Zoning Commission.

Mr. Whitehouse pointed out that there was a separate request relating to the word “RPC” within the Commission’s recommended wording. There was a concern that it might prohibit kayaks within the entire RPC. It was requested to be changed to “Park”.

**M 047 22
Amend
Conditions/
CZ1948**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to revise No. 15 to delete the word “RPC” and insert the word “Park”.

Motion Adopted: 5 Yeas.

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

**M 048 22
Adopt
Ordinance
No.2827/
CZ1948**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2827 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL NUMBER 15 OF C/Z 1538 (ORDINANCE NO. 1700) AND C/Z 1926 (ORDINANCE NO. 2786) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS.” For the reasons given by Planning and Zoning as amended:

- 1. This matter was previously considered by the Commission, and the Commission recommended an amendment to Condition #15 to allow one dock for kayaks and paddleboards. Since both DNREC and the U. S. Army Corps of Engineers have jurisdiction over the location and dimensions of such a dock, the recommended approval was subject to their jurisdiction. After the Council hearing, the Commission’s recommendation was amended by Council to include specific dimensions of the dock, which evidently are impossible or impractical**

**M 048 22
Adopt
Ordinance
No.2827/
CZ1948
(continued)**

to meet according to the record from this current application. For this reason, it was moved that the Commission’s original recommendation be followed, with the County approval being subject to the review and approval of the state and federal agencies who have jurisdiction over a dock like this. This recommendation is again based upon the following reasons:

2. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
3. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
4. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
5. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
6. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.
7. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:

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

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED,

**Introduction
of Proposed
Ordinances
(continued)**

SUSSEX COUNTY, CONTAINING 0.28 ACRES, MORE OR LESS”

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 43.777 ACRES, MORE OR LESS”

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.041 ACRES, MORE OR LESS”

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (267 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 43.777 ACRES, MORE OR LESS”

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 703 STORAGE UNITS AND OUTDOOR STORAGE FOR BOATS AND RV’S TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.424 ACRES, MORE OR LESS”

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 1.564 ACRES, MORE OR LESS”

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members’
Comments**

There were none.

**M 049 22
Go Into
Executive
Session**

At 10:49 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation, and land acquisition.

M 049 22 **Motion Adopted: 5 Yeas.**
Go Into
Executive **Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**
Session **Mr. Hudson, Yea; Mr. Rieley, Yea;**
(continued) **Mr. Vincent, Yea**

At 10:57 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matter relating to pending/potential litigation, and land acquisition. The Executive Session concluded at 11:12 a.m.

M 050 22 **At 11:16 a.m., a Motion was made by Mr. Hudson seconded by Mr. Rieley**
Reconvene **to reconvene.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

E/S Action **There was no action on Executive Session matters.**

M 051 22 **At 11:18 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley,**
Recess **to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 052 22 **At 1:31 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to**
Reconvene **reconvene.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Rules **Mr. Moore read rules and procedures for public hearings.**

Public **Mr. Jamie Whitehouse, Planning and Zoning Director reported that staff**
Hearing/ **received correspondence from Mr. Sutton of Civil Engineering Associates**
CU2279 **requesting that this Application be withdrawn from Council's agenda.**

M 053 22 **A Motion was made by Mr. Hudson motion, seconded by Mr. Rieley to**
Withdraw **allow the Applicant to withdraw Application CU2279 "AN ORDINANCE**
CU2279 **TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM**

M 053 22
Withdraw
CU2279
(continued)

DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (11 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALITMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.035 ACRES, MORE OR LESS.” (property lying on the east side of Kent Avenue [S.C.R 361], approximately 0.66 mile south of Garfield Parkway [Rt. 26]) (911 Address: 33309 Kent Avenue, Bethany Beach) (Tax Parcel: 134-17.11-6.00)

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU2282**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A MICROBREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALITMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.35 ACRES MORE, OR LESS.” (property lying on the southeast corner of the intersection of Cedar Neck Road [S.C.R. 359]) (911 Address: 38450 Hickman Road, Ocean View) (Tax Parcel: 134-9.00-27.00)

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2021 at which time action was deferred. On January 13, 2022, the Commission recommend approval for the following reasons:

- 1. The use will be located in an existing building at the intersection of Cedar Neck Road and Hickman Road where other commercial and business uses currently exist. This location is consistent with the adjacent zoning and uses.**
- 2. This small use will not adversely impact traffic or area roadways.**
- 3. This small use will not adversely affect the neighboring properties or community.**
- 4. As a small microbrewery, there will not be many deliveries to or from the premises.**
- 5. As a microbrewery, the Applicant will be required to comply with all State and Federal requirements governing the use.**
- 6. The use will be served by Sussex County Sewer.**
- 7. No parties appeared in opposition to this application.**
- 8. This recommendation is subject to the following conditions:**
 - a. The use as a microbrewery shall comply with all State and Federal requirements for its use and operation.**
 - b. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the microbrewery operation to the Sussex County Sewer System. In addition, any waste or spent materials associated with the brewing operations shall be**

**Public
Hearing/
CU2282
(continued)**

- stored inside of the building until removed by legal and appropriate methods.
- c. The hours of operation for public access to the microbrewery shall be between 11:00 a.m. and 10:00 p.m. each day.
 - d. There shall be no outdoor music on the patio. The location and size of the patio shall be shown on the Final Site Plan and clearly marked on the site itself.
 - e. Since this property is zoned C-1, the signage shall comply with the requirements of the C-1 Zoning District.
 - f. All roadway and intersection improvements shall be subject to the requirements of DelDOT.
 - g. The Final Site Plan shall be subject to review and approval of the Sussex County Planning & Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated December 9, 2021 and January 13, 2022.)

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

The Council found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant. Mr. Stephen Spence, Co-Council and Mr. Larry Davies, member of the LLC were also present.

Ms. Peet explained that Section 115-179 of the Sussex County Code requires a Conditional Use to operate a microbrewery. She added that the Applicant had received two notices of violation as discussed and noted in the Planning and Zoning Commission meeting minutes.

This property is located within a C-1 Zoning District; the immediate property to the south and east are in the MR Medium Residential Zoning District; immediate property to the south and across Hickman Road are zoned C-1. There are nine approved Conditional Uses operating within a one-mile radius of the property. The nearby businesses include a restaurant across the street, a small strip mall adjacent to the property which includes a seafood takeout business, liquor store, laundry mat and two vacant spaces. Ms. Peet added that one of the vacant spaces is anticipated to be another take out eatery.

The site was previously operated as an Italian restaurant, where alcohol was served. The proposed use will include the microbrewery, a tasting room, indoor seating, and outdoor patio seating area. No food will be served on site; however, patrons will be permitted to bring food into the microbrewery, ordered from nearby takeout eateries.

Ms. Peet shared the proposed microbrewery will be located in an existing 2,773 square foot building with access that exists off Hickman Road. There are 20 existing parking spaces on existing paved and gravel parking areas that are shown on the site plan.

**Public
Hearing/
CU2282
(continued)**

The outdoor patio is approximately 1,200 square feet; hours of operation are anticipated to be from 11:00 a.m. until 10:00 p.m., and to be adjusted seasonally.

Mr. Schaeffer asked if the hours of operation met the needs of the Applicant. Ms. Peet replied that the Applicant specifically requested the hours of 11:00 a.m. until 10:00 p.m., and to be adjusted seasonally.

Mr. Spence shared that there is an application pending before the Alcohol Beverage Commission. At this time, it has not been completed yet, due to there being an issue with the patio area. He added the proposed hours from 11:00 a.m. until 10:00 p.m. does meet their needs.

Mr. Schaeffer asked if the ABC regulates if music can be played on an outside patio. Mr. Spence replied that they do. Mr. Schaeffer believes that agency should regulate that request. Mr. Spence shared that it is not intended to have outside music; it is intended to only have cornhole games or another type of activity outdoors. Mr. Spence stated that if Council did not desire to impose the condition of no outdoor music, he is open to that. In the future, if outdoor music was desired, an application would need to be filed, public notice would need to be given and provided an opportunity for protest at the O.A.B.C.C. Mr. Schaeffer commented that he does not like to impose restrictions no small businesses people. He added that it is regulated by the ABC.

There were no public comments.

The Public Hearing and public record were closed.

**M 054 22
Amend
Conditions/
CU2282**

A Motion was made Mr. Schaeffer, seconded by Mrs. Green to amend Condition 8d to remove the first sentence that reads “There shall be no outdoor music on the patio”.

Motion Adopted: 5 Yeas.

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

**M 055 22
Adopt
Ordinance
No. 2828/
CU 2282**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2828 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A MICROBREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALITMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.35 ACRES MORE, OR LESS.” (Conditional Use No. 2282) filed on behalf of Lawrence Davies, with the following amended conditions:

- 1. The use will be located in an existing building at the intersection of Cedar Neck Road and Hickman Road where other commercial and**

**M 055 22
Adopt
Ordinance
No. 2828/
CU 2282
(continued)**

- business uses currently exist. This location is consistent with the adjacent zoning and uses.**
- 2. This small use will not adversely impact traffic or area roadways.**
 - 3. This small use will not adversely affect the neighboring properties or community.**
 - 4. As a small microbrewery, there will not be many deliveries to or from the premises.**
 - 5. As a microbrewery, the Applicant will be required to comply with all State and Federal requirements governing the use.**
 - 6. The use will be served by Sussex County Sewer.**
 - 7. No parties appeared in opposition to this application.**
 - 8. This recommendation is subject to the following conditions:**
 - a. The use as a microbrewery shall comply with all State and Federal requirements for its use and operation.**
 - b. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the microbrewery operation to the Sussex County Sewer System. In addition, any waste or spent materials associated with the brewing operations shall be stored inside of the building until removed by legal and appropriate methods.**
 - c. The hours of operation for public access to the microbrewery shall be between 11:00 a.m. and 10:00 p.m. each day.**
 - d. The location and size of the patio shall be shown on the Final Site Plan and clearly marked on the site itself.**
 - e. Since this property is zoned C-1, the signage shall comply with the requirements of the C-1 Zoning District.**
 - f. All roadway and intersection improvements shall be subject to the requirements of DelDOT.**
 - g. The Final Site Plan shall be subject to review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ1940**

A Public Hearing 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.76 ACRES, MORE OR LESS.”

(property lying on the southwest corner of the intersection of Indian Mission Road [Rt. 5] and John J. Williams Highway [Rt. 24]) (911 Address: 31816 & 24882 Indian Mission Road, Millsboro) (Tax Parcel: 234-23.00-262.00)

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2021, at which time action was deferred. On

**Public
Hearing/
CZ1940
(continued)**

December 16, 2021, the Commission recommended approval for the following reasons:

- 1. The applicant is seeking a change in zone to C-2 Medium Commercial. The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets. In this case, the Applicant seeks to construct one of its bank branches at this location.**
- 2. This property is located at the intersection of Routes 5 and 24. This is an appropriate for the uses that are permitted in the C-2 District.**
- 3. This property is the last remaining AR-1 property at this busy intersection and is surrounded by properties that are currently zoned C-1, CR-1, and C-2. This rezoning is consistent with the adjacent zoning.**
- 4. The property is the “Coastal Area” and “Commercial Area” according to the Sussex County Comprehensive Plan. C-2 Zoning is appropriate in these Areas according to the Comprehensive Plan.**
- 5. The rezoning will not have a significant impact upon neighboring properties or roadways.**
- 6. The property will be served by central water and Sussex County Sewer.**
- 7. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DeDOT, State Fire Marshall, and the Sussex Conservation District.**
- 8. No parties appeared in opposition to this Application.**
- 9. For all of these reasons, it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.**

(See the minutes of the Planning and Zoning Commission dated December 9, 2021 and December 16, 2021.)

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

Ms. Mackenzie Peet, Esq. spoke on behalf on the Applicant, Mr. Jack Riddle, President of Community Bank and Mr. Stephen Spence, member of the Board of Directors for Community Bank were also present.

Ms. Peet explained that the land is currently zoned AR-1 and the Applicant is seeking to rezone the property to C-2 Medium Commercial. The Applicant reason for rezoning the property is to redevelop the property into a future branch office or similar use.

Currently, the property consists of a dwelling that is in poor condition that consists of overgrown vegetation and a small cemetery that will not be disturbed as part of the proposed construction and development of the site. Ms. Peet noted that the existing home will be demolished, and landscaping will be cleared soon after the bank acquires the property. Ms. Peet shared

**Public
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CZ1940
(continued)**

that rezoning of the property is consistent with the County's Comprehensive Plan and Future Land Use Map. She added that the rezoning will not diminish or impair property values in the surrounding neighborhoods, will not create a public nuisance, and will not result in an increase of public expenditures. Ms. Peet noted that there are no wetlands on the property; that the property is located within Flood Zone X; that any sensitive historical features present onsite, including the cemetery, will not be impacted by construction or future use. The stormwater will be provided onsite in accordance with State of Delaware regulations and will be served by public water and sewer service. The Future Land Use Map designates the property within the Coastal Area and Commercial Area.

Ms. Peet pointed out that all properties to the south have the same land use designation; with all properties surrounding the site having the designation as Coastal Area.

There were no Public Comments.

The Public Hearing and public record were closed.

**M 056 22
Adopt
Ordinance
No. 2829/
CZ1940**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2829 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.76 ACRES, MORE OR LESS" for the reasons given by Planning and Zoning Commission:

1. The applicant is seeking a change in zone to C-2 Medium Commercial. The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets. In this case, the Applicant seeks to construct one of its bank branches at this location.
2. This property is located at the intersection of Routes 5 and 24. This is an appropriate for the uses that are permitted in the C-2 District.
3. This property is the last remaining AR-1 property at this busy intersection and is surrounded by properties that are currently zoned C-1, CR-1, and C-2. This rezoning is consistent with the adjacent zoning.
4. The property is the "Coastal Area" and "Commercial Area" according to the Sussex County Comprehensive Plan. C-2 Zoning is appropriate in these Areas according to the Comprehensive Plan.
5. The rezoning will not have a significant impact upon neighboring properties or roadways.
6. The property will be served by central water and Sussex County Sewer.
7. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after

**M 056 22
Adopt
Ordinance
No. 2829/
CZ1940
(continued)**

- taking into account all required agency reviews, including DelDOT, State Fire Marshall, and the Sussex Conservation District.
8. No parties appeared in opposition to this Application.
 9. For all of these reasons, it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ1944**

A Public Hearing 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.68 ACRES, MORE OR LESS.” (property lying on the north side of Lewes Georgetown Highway [Rt. 9] approximately 0.55 mile west of Prettyman Road [S.C.R. 254]) (911 Address: 25141 Lewes Georgetown Highway, Georgetown) (Tax Parcel: 235-30.00-6.20)

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2021 at which time action was deferred. On January 13, 2022 the Commission recommended approval for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is currently zoned AR-1 along Route 9. It was previously approved for use as a landscape business in 2017 as Conditional Use # 2093 and Ordinance #2521. The Applicant seeks to convert the existing conditional use to the C-2 Medium Commercial District to allow greater flexibility in his landscaping business and to allow more retail sales associated with that use to occur from the site. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location along Route 9 will benefit nearby residents of Sussex County by providing a commercial location for the Applicant’s business. Nearby residents will not have to travel to Lewes, Milton, Long Neck, or Georgetown for the retail and service uses that can be provided at this site.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is mostly in the “Low-Density Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order

**Public
Hearing/
CZ1944
(continued)**

- prosperity, and welfare of the County.
7. No parties appeared in opposition to the rezoning application.
 8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated December 9, 2021 and January 13, 2022.)

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

Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant; Mr. John Huss, sole member of Executive Lawn Management Property, LLC was also present.

Ms. Peet explained that Executive Lawns Management Property, LLC purchased the property in 2017 after recognizing their need for more space than their former site where they operated this business.

Shortly after purchasing the property, the Applicant pursued a Conditional Use; Ordinance No. 2521 granted a Conditional Use of Land for Executive Lawns Management, LLC to operate its landscaping business with equipment storage. Mr. Huss is looking to expand his business that has done very well and is experiencing significant growth since moving to this property. The proposed business is for a wholesale garden center type use which is permitted by right in the C-2 zoning district.

There were no Public Comments.

The Public Hearing and public record were closed.

**M 057 22
Adopt
Ordinance
No. 2830/
CZ1944**

A motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Ordinance No. 2830 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 3.68 ACRES, MORE OR LESS" for the reasons given by the Planning and Zoning Commission:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 along Route 9. It was previously approved for use as a landscape business in 2017 as Conditional Use # 2093 and Ordinance #2521. The Applicant seeks to convert the existing conditional use to the C-2 Medium Commercial District to allow greater flexibility in his landscaping business and to allow more retail sales associated with that use to

M 057 22
Adopt
Ordinance
No. 2830/
CZ1944
(continued)

- occur from the site. This is an appropriate location for C-2 zoning.
3. **C-2 Zoning at this location along Route 9 will benefit nearby residents of Sussex County by providing a commercial location for the Applicant’s business. Nearby residents will not have to travel to Lewes, Milton, Long Neck, or Georgetown for the retail and service uses that can be provided at this site.**
 4. **There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
 5. **The site is mostly in the “Low-Density Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
 6. **The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
 7. **No parties appeared in opposition to the rezoning application.**
 8. **Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

M 058 22
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at 2:01 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

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