

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 7, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 7, 2023, at 12:30 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney
Vince Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 113 23
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda, as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

Minutes

The minutes from February 28, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from Catholic Charities thanking Council for their support.

**Public
Comments**

Public comments were heard.

Ms. Eul Lee spoke about the building boom in Sussex County and GIS software.

Ms. Janet Ambrose, spoke on behalf of the League of Woman Voters of Sussex County. She explained that members of the organization were present at today's meeting to learn and observe.

Mr. Rich Borrasso representing SARG spoke about forests and trees lost and population increases in Sussex County.

**Public
Comments
(continued)**

Ms. Maggie McLaughlin spoke about the Comprehensive Plan when approving subdivisions.

Mr. Jeff King spoke about a subdivision that is going in near the Eagle Crest airport.

Ms. Janet L. spoke about trees and preservation and suggested charging a new resident fee. In addition, she discussed the language in the County Code referencing stormwater ponds.

Ms. Melanie Bernstein spoke about the need for trees.

**Discussion
& Possible
Introduction
Ordinance/
Removal
Procedures**

Mr. Moore discussed an Ordinance relating to the Removal Procedures for Members of Appointed Boards, Commissions & Advisory Committees for Council's consideration.

Mr. Moore explained that at the last meeting, it was requested that he draft a Proposed Ordinance related to removal procedures for members of appointed boards, commissions, and advisory committees. He further explained that this was something that he has been working on for some time. He reported that he looked at the Delaware Code which does reference how you can replace or appoint people who have been removed. However, there is nothing in the code that talks about the removal process itself nor is there anything in the County's code that references it.

Mr. Moore reported that he did have the personnel attorney review the Proposed Ordinance.

**Introduction
of Proposed
Ordinance**

Mr. Hudson introduced a Proposed Ordinance entitled AN ORDINANCE TO ADD A NEW CHAPTER (CHAPTER 30) TO THE COUNTY CODE TITLED "REMOVAL PROCEDURES FOR MEMBERS OF APPOINTED BOARDS, COMMITTEES, AND ADVISORY COMMITTEES".

**Review of
County
Council's
priority
initiatives**

Mr. Lawson reviewed the County Council's priority initiatives that were created for the near future and on-going efforts. The list was developed based on submittals received earlier this year.

Mr. Lawson reviewed the priority and ongoing initiatives. The priority initiatives include County Code updates, Delaware Code updates, DelDOT initiatives and P&Z initiatives. The on-going initiatives include Airport construction & expansion, broadband, business park expansion, Delaware State Police support, EMS support, Fire & BLS support and SC Land Trust & open space acquisition.

For County Code updates, the Subdivision Appeal timing, Solar Farms and Master Plan Zoning Ordinances have all been introduced. The Amenities Standards Ordinance will be introduced later this month. Under consideration items include quality stormwater management, accessory dwelling unit (garage studio) update, tiny homes zoning, through lot and

**Review of
County
Council's
priority
initiatives
(continued)**

corner lot nuances update and pool requirements. In addition, side yard setbacks is a longer-term item.

Under Delaware Code updates, State Code updates are required to address numerous issues related to the property assessment process.

Mr. Lawson then reviewed DelDOT initiatives. DelDOT will be providing an update to County Council on projects later this month. The CTP list was developed this year which is currently soliciting public input. The right of way at Cave Neck, Hudson and Sweetbriar for the FAST Intersection has been identified of what needs to be acquired. DelDOT is committing to construction next year for that project. There are ongoing discussions with DelDOT leadership in reference to the MOU review. Lastly, long term discussion on development funding.

Next, the Planning and Zoning initiatives were discussed. Mr. Whitehouse, Mr. Robertson, and Mr. Lawson have recently discussed development design ideas. These specifically relate to buffer, including open space, forest preservation, superior design, and cluster subdivision standards. A joint workshop with P&Z Commission to discuss trends, observation and needs was suggested. For transfer of development rights, it is believed that a consultant would be needed.

Airport construction and expansion was then discussed. The Phase I design is currently on-going for the parallel taxiway B. A potential start date for the environmental assessment and preliminary engineering for the 4/22 runway extension is this year. The Phase II construction for the parallel taxiway B is estimated to be in 2024.

Mr. Lawson noted that given the amount of federal and state funding dedicated to broadband expansion, it is appropriate to allow the State to lead this initiative.

Mr. Lawson reported that Phase 2 of the DE Coastal Business Park is shovel ready. The County is actively reviewing potential new tenants with a focus on bringing jobs to the Park.

An annual budget consideration for Delaware State Police trooper allocation in Sussex is discussed during the budget process.

For paramedics, annual budget consideration related to staffing, stations, and equipment is discussed during the budget process. In addition, a mental health initiative is currently in progress.

Work will continue with local fire & BLS companies to seek financial agreement compliance. In addition, there are on-going discussions with SC Volunteer Firefighters Association to determine needs.

Mr. Lawson shared that there are several parcels under consideration for

acquisition for open space. Mr. Lawson reported that it is desired to work with the SCLT to establish a MOU for roles and responsibilities.

Presentation & discussion/ County Code regarding development

Mr. Lawson presented information related to updates to the County Code regarding development.

Mr. Lawson stated that the five broad categories that staff came up with were open space, superior design, subdivision standards, forest preservation and site work. Mr. Lawson then read the definition of Open Space as defined in County Code (§115-4). It reads as follows: “Those land areas within all major residential subdivisions, residential planned communities or developments which have a purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped or natural state, including lands used for agricultural purposes, promote conservation, protect wildlife or serve as a buffer between residential and nonresidential areas and/or commercial and noncommercial areas”. Mr. Lawson noted that the definition goes further to list permitted uses as well as what is not permitted.

Mr. Lawson shared a photo and the information of a typical cluster subdivision. In addition, the open space was discussed of what was included and how it would be accessed.

Mr. Robertson discussed superior design requirements for cluster subdivisions. Mr. Robertson reported that additional options that allow flexibility and better design and a yield plan to illustrate the number of dwelling units could be considered. In addition, it was suggested to review the perimeter buffer sizes and developing perimeter buffer protection. In addition, review rolling berm and solid fence options for buffer options between developments and the minimum lot sizes for cluster subdivisions.

Mr. Robertson explained that the current language for Subdivision approval states the Commission shall consider a list of seventeen items. The current language and lists needs to be reviewed and updated so it is clear that an application satisfies the criteria.

Mr. Whitehouse discussed forest preservation and site work requirements. First, it was pointed out to consider additional incentives and options that allow flexibility and better design to encourage forest preservation. Also, consider a forest assessment prior to site work. In addition, develop protections to the existing wooded areas designated as perimeter buffers and protections to the property during the land use process (post-application). Mr. Whitehouse shared photos of existing woods near distributed perimeter buffer and an example of a planted perimeter buffer.

Mr. Lawson discussed the next steps.

Administrator’s

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

Report

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, High Point Preserve (f/k/a Assawoman Lakes & Evergreen) Plan Approval & Construction Record - received Substantial Completion effective March 2nd.

2. County Meeting Schedule

A reminder that Council will not meet on March 14th. The next regularly scheduled Council meeting will be held on Tuesday, March 21st, at 10:00 a.m.

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

IB Irrigation Pump Replacement

Hans Medlarz, County Engineer presented a recommendation for award for IB Irrigation Pump Replacement, Project M23-07 for Council's consideration.

M 114 23 Award IB Irrigation Pump Replacement

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that contract M23-07, Irrigation Pump Replacement, be awarded to A.C. Schultes, for their total bid of \$98,941.00.

Motion Adopted: 4 Yeas, 1 Absent

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

DE Coastal Airport/Contract Extension & Cost Adjustment

Hans Medlarz, County Engineer presented a contract extension and cost adjustment for the Delaware Coastal Airport/Business Park and miscellaneous property maintenance for Council's consideration.

M 115 23 Approve Contract Extension & Cost Adjustment

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department that the Eastern Sussex Property Maintenance contract be increased by \$36,000.00 for inclusion of the sediment removal from the drainage ditches at the business park.

Motion Adopted: 4 Yeas, 1 Absent

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

Grant Request

Mrs. Jennings presented a grant request for Council's consideration.

M 116 23 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give American Legion Post 8, Inc. for placement of flags for veterans.**
American Legion Post 8, Inc.

Motion Adopted: 4 Yeas, 1 Absent

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

Introduction of Proposed Ordinances **Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1474 (ORDINANCE NO. 1572) RELATING TO THE REQUIREMENT TO PROVIDE A PARK AND RIDE FACILITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 303.00 ACRES, MORE OR LESS” filed on behalf of Peninsula Lakes, LLC.**

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A PORITON OF CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43.27 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PERSONAL TRAINING & MARTIAL ARTS SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS” filed on behalf of Noel Bowman.

The Proposed Ordinance will be advertised for Public Hearings.

Council Member Comments **Mr. Hudson made a comment to clarify something from last week’s meeting. During last week’s meeting, he asked Mr. Moore to draft an Ordinance for the Council to be able to remove someone from a board or commission. He stated that this does not stem from something recent; it came from last year and prior to last year. Mr. Hudson stated that on Friday morning, Mr. Jordan Warfel, a member of the Board of Adjustments went on two radio stations and spoke about this. In addition, in one of his interviews, Mr. Warfel stated that Council discussed the form and one of the Council members expressed a desire to remove him from the**

Board. Mr. Hudson stated that is totally fabricated; it was never said, and his name was never brought up. Mr. Hudson added that Mr. Warfel has never been on the radar.

Rules

Mr. Moore read the rules and procedures for public hearings.

**Public
Hearing/
CU2370**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AMENDMENTS TO CONDITIONAL USE NO. 1334 (ORDINANCE NO. 1383) TO ALLOW FOR AN ADDITIONAL COMMERCIAL BUILDING FOR STORAGE AND OPERATIONS OF A CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (property lying on the north side of Four of Us Road, approximately 234 feet west of Hollyville Road [S.C.R. 48]) (911 Address: 28816 Four of Us Road, Harbeson) (Tax Parcel: 234-10.00-12.09) filed on behalf of William D. & Carol Emmert

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 10 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated January 26, and February 9, 2023).

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

The Council found that Mr. Blake Carey, with the Smith Firm, LLC, spoke on behalf of the Application; that also present was Mr. William D. Emmert; that the property is located on the northerly side of Four of Us Road, being west of Hollyville Rd. in Harbeson; that the Applicants acquired the property in approximately 2000; that the property is roughly 3.93 acres; that around the time of acquisition, the Applicants did seek a Conditional Use; that a Conditional Use was granted for C/U 1334, which became Sussex County Ordinance No. 1383; that Ordinance 1383 allowed for two buildings to be located on the property; that one building was permitted for storage related to the Applicant’s auction business, known as Emmert Auction Associates; that the other building was permitted for a landscaping business; that thereafter the approval, the first building was constructed on the western side of the property; that building was utilized and continues to be utilized by the Applicant for the auction business; that the Applicant sought a permit for the construction of the second building; that the second building is existing and currently constructed; that the second building was utilized as a residential construction business; that Ordinance 1383 allowed for a landscaping business; that Sussex County informed the Applicant to

**Public
Hearing/
CU2370
(continued)**

inform them that they would need to apply for a Conditional Use to allow for the construction business; that currently there is no retail sales or manufacturing take place in the building; that the current Conditional Use request is related only to the proposed use for the second building on the property; that no retail sales are proposed at the building; that manufacturing would not take place at either building on the property; that the Applicant does propose hardscaping and residential hardscaping materials and equipment, along with portable dumpsters for rent; that the parking for the employees is located at around the second building; that the parking well within the setbacks; that the other properties located along Four of Us Road, consist of additional buildings used for the storage of vehicles and vehicle mechanical work; that Parcel 12.11, located to the west, is utilized for a large scale landscaping/maintenance business; that water for the property is served by a private well; that waste water is served by private septic; that the property is located in the AR-1 (Agricultural Residential) Zoning District; that the Conditional Use request is to allow the second building to be located on the property, and for the second building and the area surrounding it to be utilized for a residential construction business; that the residential construction business would include an office to be located within the second building, employee parking to be located around the second building, the storage of equipment and materials to be located within and outside of the second building; that the request would also include the storage of the portable rental dumpsters to be located on the property; that the proposed Conditional Use is similar in character of the surrounding area and properties along Four of Us Road; that nearby properties of the site, include several storage buildings and other businesses, which include other construction related businesses; that located within a one mile radius, are other professional services with contractor storage have been permitted via Conditional Uses for AR-1 zoned properties; that the proposed use would have no adverse impact on the character or property values of the surrounding area; that DelDOT confirmed a Traffic Impact Study (TIS) was not required; that the AR-1 property is located within a Low Density area, per the Comprehensive Plan; that the proposed use is not an intense commercial use and is not large in scale; that due to this, the proposed use is permissible according the Comprehensive Plan; that the Staff Analysis concluded that subject to considerations of scale and impact, a Conditional Use to allow for an amendment of Ordinance 1383, could be considered consistent with land use area zoning and surrounding uses; that the proposed use is for residential construction, not commercial construction, therefore not involving large-scale operations; that the proposed use will benefit the health, safety and welfare of existing and future Sussex County residents; that the proposed use will benefit and address the needs of residential and agricultural owners, by providing convenient services to neighboring properties and residents of Sussex County; that permitting the use will increase competition within the residential construction setting, which is beneficial to County residents, healthy for the economy and a benefit to the public itself; that similar properties are hard to come by, or too expensive, along commercial areas; that this creates stifling of small businesses to survive in the area; that the

**Public
Hearing/
CU2370
(continued)**

use will not impact nearby properties or roadways; that the second building and its uses will be generally be shielded from Hollyville Rd. by existing tree lines; that there is existing fencing around the property that the proposed use would not generate any significant noise or construction equipment; that equipment would only be utilized when mobilizing to sites to perform hardscaping installs; that the Application is consistent with Code requirements for a Conditional Use; that the proposed conditions that the Planning and Zoning Commission set forth have been reviewed; that no retail would be conducted at the site; that all exterior lighting shall be downward screened so it does not shine on neighboring properties.

There were no public comments.

The Public Hearing and public record were closed.

**M 117 23
Adopt
Ordinance
No. 2909/
CU2370**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2909 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AMENDMENTS TO CONDITIONAL USE NO. 1334 (ORDINANCE NO. 1383) TO ALLOW FOR AN ADDITIONAL COMMERCIAL BUILDING FOR STORAGE AND OPERATIONS OF A CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” filed on behalf of William D. & Carol Emmert for the reasons and conditions given by the Planning and Zoning Commission as follows:

1. Ordinance No. 1383 approved C/U 1334 as “a storage building for an auction company (no retail) and a storage building for a landscaping business (no retail)”. This approval was granted by Sussex County Council on June 27, 2000.
2. The existing Conditions of Approval limited the use of the building that was included on the Site Plan at the time.
3. The Applicant has operated its business, along with a landscaping company, for many years without issue. The Applicant now seeks to expand the use to allow another building on the site along with outside storage. The Applicant testified that there is a need for this additional space to support these types of uses in this part of Sussex County.
4. This site is located on a private road known as “Four of Us Road” where other similar business and commercial uses and buildings exist. The additional uses, buildings, and storage will be consistent with this small business neighborhood.
5. The additional storage building will be located more than 400 feet from Hollyville Road and the nearest dwelling.
6. This proposed amendment will not adversely affect the neighborhood or area roadways.
7. No parties appeared in opposition to this application.

**M 117 23
Adopt
Ordinance
No. 2909/
CU2370
(continued)**

- 8. This recommendation is subject to the following amended conditions to C/U 1334, codified as Ordinance No. 1383:**
- a. Two buildings shall be permitted on this site, including the one approved in 2000 and the additional one that is the subject of this application.**
 - b. The use of the buildings shall be limited to storage and offices for an auction company, landscaping company, or construction company.**
 - c. Outside storage shall be permitted in conjunction with the permitted uses for an auction company, landscaping company, or construction company.**
 - d. No retail sales shall be permitted on the site.**
 - e. Any security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
 - f. All dumpsters shall be screened from the view of neighboring residential properties. The locations of the dumpsters shall be shown on the Final Site Plan.**
 - g. The areas set aside for parking and outside storage shall be shown on the Final Site Plan and clearly marked on the site itself.**
 - h. The use shall be screened from view of the nearest residential dwelling and Hollyville Road. The location and type of screening shall be shown on the Final Site Plan.**
 - i. One lighted sign shall be permitted along Four of Us Road. It shall not exceed 32 square feet in size on each side.**
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CZ1974 &
CZ1975**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS” (property lying on the northeast side of Vines Creek Road [Rt. 26], approximately 425 feet northwest of Powell Farm Road [S.C.R. 365]) (911 Address: 34371 Vines Creek Road, Dagsboro) (Tax Parcel: 134-11.00-152.00) filed on behalf of Gregory T. White and Patricia P. White

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined.

**Public
Hearing/
CZ1974 &
CZ1975
(continued)**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS” (properties lying on the southwest side of Vines Creek Road [Rt. 26] approximately 450 feet northwest of Powell Farm Road [S.C.R. 365]) (911 Addresses: 34360 & 34376 Vines Creek Road, Dagsboro) (Tax Parcels: 134-11.00-107.00 and 108.00) filed on behalf of Gregory T. White and Patricia P. White.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons as outlined.

(See the minutes of the January 26, and February 9, 2023 Planning and Zoning Commission meeting.)

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

The Council found that Ms. Mackenzie Peet, with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applications; that also present was Mr. Gregory T. White; that she combined the presentation for CZ1974 and CZ1975; that they are both part of the same project for a self-storage facility; that the parcels in question are parcel 152 and parcels 107 and 108; that CZ1974 is a request for a Change of Zone from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the property is located off Vines Creek Rd., being along the northeast side of Rt. 26; that the property is 2.83 acres; that CZ1975 request is for two parcels being Parcel 107 and Parcel 108; that the intention is to rezone the properties from MR (Medium-Density Residential) to C-2 (Medium Commercial); that the parcel consists of a total size area of 3.64 acres more or less; that exhibits have been submitted into the record; that the applicants intends to develop a self-storage facility on parcels 107 and 108; that in addition, a self-storage facility on parcel 152 that will also include storage of parked vehicles, which is permitted in C-3 Zoning; that the parcels are located on Vine Creek Road near the intersection of Omar Road and Powell Farm Road; that along this intersection and adjacent to the site is Car Quest Auto Parts, on property zoned as CR-1 (Commercial Residential); that the property adjacent to the auto part store is a marine store; that east along Atlantic Ave. are multiple properties zoned for commercial; that Good Earth Market is zoned CR-1; that Creative Concepts, Liberty Gas Station, Hockers and Walgreens are all zoned for commercial; that last year, a nearby property was re-zoned to C-3 (Heavy Commercial) for the proposal of mixed-use, with commercial on the bottom and residential located on top; that also St. George’s Church and cemetery are also located nearby the

Public
Hearing/
CZ1974 &
CZ1975
(continued)

property; that on January 26, 2023, the Planning and Zoning Commission heard each application; that on February 9, 2023, the Planning and Zoning Commission voted to grant each rezoning request by a vote of 5-0; that Parcel 107 is located within the Tier 1 Sussex County Sanitary Sewer District; that there is an existing well on the site, which is noted on the Concept Plan; that the proposed increase in traffic and impact to surrounding roadways will be analyzed, reviewed and approved by DelDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the subject site is located within Investment Level 2; that Investment Level 2 areas where growth is anticipated in the near future; that the PLUS comments reference some discussion concerning the downzoning of the property to AR-1 (Agricultural Residential) in addition to seeking a Conditional Use; that there is an existing dwelling located on Parcel 108; that the PLUS comments also make reference to the existence of a cemetery; that the cemetery referenced, is the location of the St. Georges cemetery; that the Applicant did contact Dr. Edward Otter regarding the cemetery issue; that Dr. Otter suggested there was most likely an error with the map noting a cemetery located on the project's parcel; that the cemetery is located on the adjacent property, where the St. Georges Cemetery is located; that this issue led to title research being performed for the property, which confirmed that neither of the subject properties were ever owned by the church or cemetery; that Mr. Whitehouse has spoken with Mr. Wayne Bowden, President of St. George's Cemetery Association, Inc., who also provided an email confirming the St. George's Cemetery dates back to the 1800s; that there have never been any grave sites located on the subject property and there is an existing wall that separates the properties from one another; that he had never seen a gravesite and does not believe there are any current grave sites located on the property; that Ms. Peet submitted documents into the record to confirm the information shared; that the proposed use is for a self-storage facility, which is a permitted use within the C-2 Zoning District; that C-2 District is purposed for supporting uses that include retail sales and performance of consumer services, permitting a variety of retail, professional and service businesses; that C-2 Districts are also located near arterial and collector streets, like Rt. 26; that the proposed use is permitted and will support the demand for needed storage; that the property and surrounding area is located within the Coastal Area; that the Coastal Area is a Growth Area; that the proposed commercial use is completely in character with the surrounding area; that a tax ditch runs through the site of Parcel 152; that the tax ditch is noted on the Site Plan; that a Tax Ditch Right of Way Modification will be required, as stated within the Applicant's response to the PLUS comments; that the tax ditch is required to be surveyed and analyzed for effective function; that along the rear portion of the property, DNREC had noted the potential presence of wetlands; that the Applicant does understand the wetlands would require delineation for any future development of the site; that these issues would be addressed at Site Plan approval for the property; that the property is located within the Tier I of the Sussex County Unified Sanitary Sewer District; that the proposed increase in traffic and impact to surrounding roadways will be

**Public
Hearing/
CZ1974 &
CZ1975
(continued)**

analyzed, reviewed and approved by DeIDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the property is located within three different Investment Levels, being Investment Levels 2, 3 and 4; that the front portion of the property is located within Investment Level 2; that the middle of the property is located within Investment Level 3; that the rear portion of the property is located within Investment Level 4; that the proposed rezoning is consistent with the Comprehensive Plan and Future Land Use Map; that within the surrounding area of the site, there have been five Change of Zone applications filed; that C/Z 1738 for a Change of Zone from AR-1 to B-1 (Neighborhood Business) for the existing thrift store; that C/Z 1789 from AR-1 to CR-1 (Commercial Residential), which is the location of Good Earth Market; that C/Z 1798 from AR-1 and CR-1 (Commercial Residential) zoning to C-1 (General Commercial), which is the location of the auto center; that C/Z 1840 from AR-1 to CR-1 (Commercial Residential), which is adjacent to Bob's Marine; that C/Z 1980 for MARS-RE,LLC was recently approved to change the zoning from AR-1 to C-3 (Heavy Commercial); that for all the reasons stated the proposed rezoning of the property meets the general purpose of the Zoning Ordinance, promotes the orderly growth, prosperity and welfare of Sussex County.

There were no public comments.

The Public Hearing and public record were closed on both applications.

**M 118 23
Adopt
Ordinance
No. 2910/
CZ1974**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2910 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS" for the reasons given by the Planning and Zoning Commission as follows:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations. Although a number of uses are permitted, this Applicant intends to construct a storage facility on this site.
2. This property has frontage along Route 26. Route 26 is considered to be a Major Collector roadway according to DeIDOT's roadway classification. Major Collector roads are appropriate locations for C-3 Zoning.
3. The parcel is in an area of Route 26 where there are commercial districts and business and commercial uses that have developed. This location along this part of Route 26 is appropriate for this type of zoning.
4. This property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is

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Adopt
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No. 2910/
CZ1974
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- appropriate in this Area according to the Plan.
5. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
 6. No parties appeared in opposition to this rezoning application.
 7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

M 119 23
Adopt
Ordinance
No. 2911/
CZ1975

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2911 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

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 26. There are other commercially zoned properties in the area and a number of business and commercial uses are nearby. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location along Route 26 will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the “Coastal 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: 4 Yeas, 1 Absent

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

Mr. Vincent, Yea

**Public
Hearing/
CZ1995 &
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02**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02. (properties lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcels: 334-5.00-153.00 & 334-5.00-153.02)

The Planning & Zoning Commission held a Public Hearing on the Ordinance on January 12, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for the 8 reasons as outlined.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS” (property lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard) (911 Address: 32172 Janice Road, Lewes) (Tax Parcel: 334-5.00-153.02) filed on behalf of Janice CRP3, LLC

The Planning & Zoning Commission held a Public Hearing on the application on January 12, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons and 16 recommended conditions as outlined.

(See the minutes of the January 12 and February 9, 2023, Planning and Zoning Commission meeting)

Jamie Whitehouse, Planning and Zoning Director presented the applications.

The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applications; that also present were Mr. Ring Lardner with Davis, Bowen & Friedel, Inc., and Mr. Jon Hoffman, representative of the owner and developer; that in May 2021, an amendment to the Future Land Use Map was filed via a letter submitted to Mr. Whitehouse; that in June 2021, the request went to the Office of State Planning Coordination; that three zoning applications were submitted in addition to the Future Land Use Map request; that a Change of Zone application, which sought to change the zoning designation of a portion of the property from AR-1 (Agricultural Residential) to MR (Medium-Density

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Residential); that another Change of Zone application was submitted, which sought to change the C-1 (General Commercial) zoning to MR zoning; that a Conditional Use application was submitted for townhomes; that a minor subdivision of the property did occur; that a storage facility, previously known as AAA Storage, located at the right corner of the property, was subdivided off of the main property; that after discussions and review with staff it was determined the multiple application requests could be simplified into one application in addition to the Future Land Use Map amendment, that are the subject applications; that the current Application is seeking to change the combination of AR-1 and C-1 zoned land to an MR-RPC (Medium-Density Residential–Residential Planned Community); that the initial name was changed; that the project was originally known as Ritter Farm; that the current project name is Vintners Reserve; that Vintners Reserve reflects the sites proximity to the Nassau Valley; that the property is located immediately west of the Nassau Overpass; that immediately to the north and west of the property is the Whispering Pines Manufactured Home Community; that to the southeast of the property is The Vineyards at Nassau Valley with the vineyard and winery; that the Lewes Volunteer Fire Department is located adjacent to the property; that the Whispering Pines Community was approved in 1971, as C/U 25; that the majority of the property is located within Investment Level 2; that a small portion of the property, at the location of the storage facility, is located within Investment Level I; that the 2045 Future Land Use Map, within the Comprehensive Plan, designates the property within the Coastal Area and Commercial Area; that the Application request is to have one consistent designation, for the Coastal Area; that Table 4.5-2 within the Comprehensive Plan identifies applicable zoning districts for each of the Future Land Use Map categories; that the only applicable zoning districts within the Commercial Area are the business and commercial districts; that to allow for any other use aside from business or commercial would require a Future Land Use Map Amendment; that the Coastal Area includes all the business and commercial zoning districts, as well as MR (Medium-Density Residential), GR (General Residential) and HR (High Density Residential) Zoning Districts; that at one time, Commercial Zoning did permit for residential use; that due to this, there are residential properties located within the Commercial zoning near the site; that C-1 (General Commercial) and CR-1 (Commercial Residential) did permit for residential uses; that the property consists of 61.7 acres with the split zoning of AR-1 and C-1 Zoning; that the request is to change to zoning entirely to MR Zoning with an RPC (Residential Planned Community) overlay; that the Applicant is seeking approval of 316 townhomes; that the C-1 portion of the property consists of 4.2 acres; that the AR-1 portion of the property consists of 57.5 acres.

The Council found that Mr. Ring Lardner, with Davis, Bowen & Friedel, Inc. spoke on behalf of the Applications; that the property is located along Janice Rd., which is classified as a local road per the DeIDOT Functional Classification Map; that Janice Rd. is parallel with Rt. 1; that Janice Rd. shares the right of way with Rt. 1; that the property is not located within

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the 100-Year Flood Plain; that Mr. Edward Launay with Environmental Resources, Inc. did perform a Wetland Delineation; that the delineation was submitted to the U.S. Army Corp of Engineers; that the U.S. Army Corp of Engineers did determine that there were no Waters of the U.S. and no wetlands located on the property; that based on historical photographs, the wetland area is the location of a previous borrow pit which helped construct Rt. 1; that there is a small Excellent Water Recharge Area, consisting of 1.324 acres, being less than 2.2% of the total site, located to the southwest corner of the site; that there are no special requirements per Chapter 89 for the project; that the impervious area, within the 1.3 acres, will be less than one half or 1% of the total site, being well below the 35% threshold which requires additional mitigation within the recharge area; that the soils located on the site are conducive for development of the property; that the DelDOT Minos Conaway Grade Separate Interchange Project will improve Janice Rd. to the local road standards; that proposed are 11-ft. travel lanes, five foot shoulders with a five foot sidewalk that will connect to the Trailhead Parking Lot, which will provide connectivity to the Georgetown trails; that the project is located within the Henlopen Transportation Improvement District (TID); that conversations were had with Ms. Sarah Coakley, DelDOT Principal Planner with the Henlopen TID; that Ms. Coakley did confirm the project is eligible to be located within the TID; that DelDOT assigned only 81 single-family homes as the proposed trip generation for the site; that they were able to demonstrate the traffic projection is in compliance with the trip generation from the 81 homes plus an allowable percentage, therefore they are eligible to remain within the TID; that a 50-ft access easement is proposed, which will be jointly shared with the storage facility; that the entrance will consist of left-turn and right-turn lanes; that the turn lanes are still being determined through the design process; that the internal roads will be designed to exceed Sussex County standards; that the pavement width for the roads will be 32-ft. in width, which exceeds the 24-ft. width requirement; that the small loop roads within the development will be 24-ft. in width; that each lot will have a minimum of two parking spaces; that additional overflow parking is provided throughout the site; that the total overflow parking includes 147 parking spaces, which are in addition to the two provided parking spots per lot; that the project will include a 20-ft. forested buffer along the northern, southern and eastern edge of the site; that they are requesting a waiver to the required forested buffer along the rear of the Lewes Fire Station and along the portion of the storage area, due to the tight access for the placement of the road; that with the provided open space, there will be plenty of screening from the Lewes Fire Station; that the project does propose a forested road interconnection for emergency personnel from the Vineyard parcel; that a pedestrian interconnection is proposed to allow pedestrian movement to the Vineyards and winery or for pedestrians wishing to access the Georgetown Trail; that at a minimum, activities are to include a dog park, an unorganized play area and a pocket park with playground equipment; that within the open space, located within the middle of the site, will be the location of the central amenities; that these amenities will include 42 parking spaces, 3,500 sq. ft. pool house, 2,000 sq.

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ft. pool and a pickleball court; that the project proposes 29 acres of total open space, which is about 47% of the project area; that stormwater management will be designed to meet or exceed DNREC standards; that they will be utilizing the area of the previous borrow pit for stormwater management; that the project is proposed a RPC (Residential Planned Community); that due to this, they are requesting three deviations from the standards of the Code; that they are requesting the average lot area be reduced from 3,630 sq. ft. per lot, to 3,000 sq. ft. per lot; that they are requesting the side yards be reduced from 20-ft. to 10-ft.; that they are requesting to reduce the distance between the sides of the buildings to be 20 feet and be consistent with the side yards; that all other requirements will be as noted within the zoning code; that the project was reviewed by PLUS; that the current plan is slightly different than the plan reviewed by PLUS; that PLUS provided a letter confirming a second PLUS review was not required; that DBF, Inc. prepared an Public Facilities Investment and Environmental Assessment Report; that with the mitigation measures implemented, the project is consistent with the Comprehensive Plan; that the Technical Advisory Committee (TAC) reviewed the plan; that the project will be served by Sussex County Sewer; that Tidewater Utilities will provide water to the site; that Delmarva Power will provide electric; that Chesapeake Utilities will provide gas; that Comcast and Verizon are available for phone and cable; that Chapter 99 responses were submitted into the record; that the project is integrated into existing terrain; that the site does not contain wetlands or flood plains; that the plan provides buffer to screen from objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safe vehicular and pedestrian improvements; that the plan mitigates the impacted area roadways and transportation and the plan is compatible with other land areas.

The Council found that David Hutt, Esq. spoke on behalf of the application; that the average lot area is 3,000 square feet; that the minimum increased in the bulk area standards; that the code states that the minimum lot area would be 1,600 square feet; that the State describes Level 2 areas are similar to Level 1 areas, being locations where State investments should support a wide range of uses and densities; that State investments should encourage departure from the typical single-family dwelling developments to promote a broader mix of housing types; that Chapter 8 of the Comprehensive Plan echoes the concerns expressed by the State; that 90% of all building permits were issued for single-family homes, with 10% of permits being for multi-family homes in 2016; that the gap between single-family and multi-family issued permits increased in 2017 and 2018, leaving only five percent of the issued building permits for multi-family homes; that the Coastal Area is described as being some of the County's most desirable, designated in locations that can accommodate development, providing a special environment where environmental concerns are addressed; that the Coastal Area permits for a range of housing types, including single-family homes, townhomes and multi-family homes; that medium and higher densities, (being four to 12 units per acre), can be appropriate in certain

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locations; that medium and higher densities can be supported in areas where central water and sewer are provided, where there is sufficient commercial uses and employment centers, where the density would keep in character of the area, where located along a main road, or located at or near a major intersection, where there is adequate levels of service or where other considerations exist that are relevant to the requested project and density; that the 316 townhomes requested, which results in a density of 5.12 units per acre; that the densities of the most immediate neighbors to the project are 6.10 units/acre for Whispering Pines, 11.94 units/acre for The Vineyards at Nassau Valley and 12.00 units/acre for Sandbar Village; that Lewes Crest, located across the street from the project, has a density of 10.00 units/acre; that the projects meet all the factors of when medium to higher densities are appropriate; that the character of the area that surrounds the parcel is a residential use; that Tidewater Utilities will provide water service to the site; that the site is located with Tier I of the Sussex County Unified Sanitary Sewer District; that there are plenty of commercial uses and employment centers in any direction; that the site is situated along a main road; that DelDOT classifies Rt. 1 as another principal arterial road; that the County Code classifies Rt. 1 as a major arterial roadways within Sussex County; that to the north of the project, DelDOT has a Grade Separated Interchange planned at the intersection of Rt. 1 and Minos Conaway Rd. in the near future; that when this takes place, Janice Rd. will become more a service road; that the project will contribute to the Henlopen Transportation Improvement District (TID); that the proposed project does keep in character to the surrounding areas of Whispering Pines, Sandbar Village and Lewes Crest; that the MR Zoning District is the County's medium-density district; that MR Zoning Code purpose is described as areas which are expected to become generally urban in character, where sanitary sewer and public water supplies may or may not be available at the time of construction; that areas nearby the property are currently considered urban in character; that the purpose of an RPC is to encourage large scale developments as a means to create a superior living environment, through unified developments to provide of the application of designed ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC tool was chosen, as it would allow for several sizes of townhomes to be offered; that the RPC overlay offered multiple open spaces areas and central amenities; that the open spaces areas make up over 45% of the total site; that there is a request to reduce the average lot size, which allow for the greater amount of open space; that by using the proposed design of the site, the RPC overlay and proposed screening, the project protects the existing residence and businesses located along Rt. 1; that all of the same characteristics which make the property appropriate for MR Zoning, also apply for the Coastal Area designation; that the project complies with all the considerations for Growth Areas listed in §4.4.2.1; that Chapter 4 describes Commercial Growth Areas, being for large scale retail; that Chapter 4 describes this site as including concentrations of retail and services uses that are mainly located along atrial and highways as opposed to small traditional downtown areas that are often historic and pedestrian friendly; that commercial areas

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include commercial corridors, shopping centers and other medium and large commercial corridors; that in addition to primary shopping destinations, this area would be the appropriate place to locate hotels, motels, car washes and auto dealerships; that the proposed use is a far less intense use than large scale commercial; that a less intensive use makes far more sense given the existing residential uses surrounding the property; that what is being proposed is consistent with the Henlopen Transportation Improvement District; that on the Future Land forecast map and the Henlopen TID, this site was allocated trips were attributable to 81 single family homes; that the traffic from the application for the 316 townhomes is consistent with the number of trips that would be generated from those 81 single family homes; that this is a further indication of the appropriateness of the application as it is being presented to this site; that Chapter 4 and Chapter 8 of the Sussex County Comprehensive Plan indicate that the proposed Coastal Area designation for the site, allowing for residential uses, is appropriate for this property within Sussex County; that in relation to the requested Future Land Use Amendment, the PLUS comments stated this parcel is surrounded by Coastal Area, and is currently slated for a higher area use, being commercial; that it is also located within Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that the State has no objection to the amendment as written; that upon review of the actual project, the State noted the property was located in Investment Level 2 and stated in Investment Level 2 reflects areas where growth is anticipated by local, County and State plans in the near term future; that State investments will support growth in these areas; that one provision mentioned was that Sussex County makes the amendment to the Future Land Use Map; that the Applicant would request the Council recommend approval for the amendment to the Future Land Use Map, as well as changing the properties designation to an MR-RPC (Medium-Density Residential–Residential Planned Community) for 316 townhomes; that he did request a proposed amendment to conditions given by the Planning and Zoning Commission; that under 10 B. x. it states “that the distance between buildings must meet the minimum setbacks described in these bulk area standards, e.g. the distance between the sides of two building could be no less than 20 feet – the combination of the two side yard minimums; that this clarification may not prove to be necessary but this is to make sure that when the site plan is reviewed by the PZ department that there is no confusion; that their anticipation was that when the bulk area standards were proposed to the Planning Commission that if the setbacks were modified that the separation distance between the buildings would follow; that in order to clarify that this amendment is proposed; that the second clarification to the Planning Commission’s recommendation would be to Condition C; that the proposed amendment is to delete the condominium and insert the word property owner; that it is not intended for this to be a condominium community.

Public comments were heard.

Ms. Jill Hicks spoke in opposition of the application. Ms. Hicks stated that it

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has been expressed by her and others, and now including the community of first responders, the growth in the county has far outpaced what its infrastructure can adequately and safely manage. County Council must use its best judgment, and authority, to maintain and adhere to the Comprehensive Plan, rather than approve detached and disjointed change requests made here and there, and at any time.

Ms. Hicks stated that she has addressed the stress on the healthcare system in this chamber prior to today's hearing.

In the case of Vintner's Reserve, its proposed 316 residences will have two exits, using Janice Road either directly onto Coastal Highway, or Janice Road to Nassau Commons Boulevard onto the Lewes-Georgetown Highway. These two major corridors, Coastal Highway, and the Lewes Georgetown Highway, surrounding the site, have already proven themselves not only dangerous, but deadly. The day before this past Thanksgiving, there was an accident at the intersection of Janice Road and Coastal Highway, involving entrapment. The same day and within 10-20 minutes of that accident on Janice Road and Coastal Highway, two other accidents occurred on Lewes-Georgetown Highway not far from the Nassau Commons Boulevard intersection. Then, sadly, and tragically, this past Christmas Eve, at the intersection of Minos-Conaway Road and Lewes-Georgetown Highway, not far from the Nassau Commons Boulevard intersection, three people died in a head-on collision. One of the three victims was only nine years old. And, in April of last year, less than a year ago, another head-on collision occurred at the intersection of Ebb Tide Road and Lewes-Georgetown Highway, again near the Nassau Commons Boulevard intersection. This time a 17-year-old died.

Ms. Hicks stated that the county cannot justify adding more traffic onto these main arteries and certainly not its narrow backroads that are now being overutilized as drivers do their best to navigate construction detours, bypass congestion, avoid dangerous intersections and left-hand turns, and detour around accidents. I would be remiss not to include two other people who also died in a head-on collision, this past December, on the narrow and winding Minos Conaway Road. In the case of Vintner's Reserve, traveling their two accident-prone arteries will be unavoidable. As DeIDOT proceeds with its major projects in its efforts to catch up with the population explosion in the County, and construction begins on approved cluster subdivisions already in the pipeline, these current unsafe conditions will only continue to deteriorate.

Ms. Hicks continued by stating that the population explosion in the County over the past five years has exhausted everyone and everything.

What occurs to her is that either the Comprehensive Plan was poor in design, and that's why landowners and developers think they are due these requests. And/or the County Council also believes the Comprehensive Plan is poor in design and has been unfair to landowners and developers,

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therefore feels obligated to grant these approvals. She added that the constituents are concerned and angry, particularly in Eastern Sussex.

Ms. Hicks stated that the applicants for Vintner's Reserve can adhere to the current land use map and codes and develop the land accordingly. Nothing has been "taken". However, constituents are tired of "giving" at their expense. If the County places as much value on the quality of life, and life itself, as it does on the economic welfare, then the County should not approve higher density requests, that will exacerbate these already unsafe and unhealthy conditions that exist in the area surrounding the site.

Ms. Hicks added that on behalf of the citizens of Sussex County, those who were born here and those who just moved here, she requested the Council to not approve projects that are requesting changes in the land use map or zoning codes or variances so developers can reap excessive financial benefits while those of that live here continue to pay the price with their safety, welfare, health, quality of life and life itself. She urged Council to not approve this zoning and land use map change application.

Ms. Eul Lee spoke in opposition of the application; that she sent her comments in after the Planning and Zoning hearing; that she questions how 81 single-family home traffic comparable with 316 multifamily traffic; that a DeIDOT MOU and Henlopen TID was done with great hopes that this would bring some changes and safety to the streets; that she has concerns about safety; that the site plan brings alarm to her; that she has a concern for fire; that she has concerns about parking and the number of spaces; that there was a fire a few years ago in Angola on a cud-a-sec; that the fire truck could not get there; that they had to go to the next community to try to reach that fire; that she is an advocate for buildings that share walls; that when it comes to the density, if the density comes at an expense of safety, the density needs to be considered of what it does; that the streets do not seem to be wide enough to support cars parking on the street; that trash trucks could have a hard time getting in and out of the development; that fire safety needs to be considered.

Mr. Rich Borrasso spoke in opposition of the application; that he was encouraged by the presentation earlier about the work in taking a look at existing code especially as it relates to superior design; that he questions if this is not the poster child for something that is other than superior design; that he is not sure that he understands that if you decrease the space between units that you are increasing the overall open space; that he has concerns of scale; that he did not hear the number of increment trips that will be accessing the Janice Road, Highway 1; that Cave Neck Road and Route 1 at one time was the number one accident intersection in Eastern Sussex County; that he believes that to make concession to allow for the density that is being requested, it is not responsible; that he thinks that if this is allowed, there should not be CO's for this residence or this applicant until all the road improvements are made at Mino Conway, Janice Road and Nassau Boulevard; that he hopes that we are doing everything that we

can in conjunction with DelDOT; that he hopes that public safety continues to be first.

The Public Hearing and public comment were closed for both applications.

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A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NOS. 334-5.00-153.00 & 334-5.00-153.02”.

Motion Adopted: 4 Yeas, 1 Absent

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

M 121 23
Defer
Action/
CZ1995

A Motion was made by Mr. Schaeffer, seconded by to Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 61.39 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

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

M 122 23
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 3:35 p.m.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Absent; 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.}