

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 21, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 21, 2023, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
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

**Call to
Order**

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

Mr. Vincent called the meeting to order.

**M 123 23
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, 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 from March 7, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from the Delaware Seaside Railroad Inc. thanking Council for their support.

**Public
Comments**

Public comments were heard.

Ms. Janet Digabel commented on the AR-1 zoning and the Cluster Subdivision language.

**Town of
Ocean View
Presentation**

Ms. Carol Houck, Town Manager for Ocean View gave a presentation on the Berzins Natural Area. Ms. Houck reported that the Town began discussing the purchase of this property located at the corner of Muddy Neck Road and Double Bridges Road in March of 2022. The final purchase of the property took place in November of 2022. Ms. Hock explained that

Town of Ocean View Presentation (continued) the Town utilized two grant funding sources to complete the purchase. The property consists of 4.06 acre and is adjacent to the Assawoman Canal. The funding sources were Sussex County Excess Tax Revenue Grant in the amount of \$288,253 and American Rescue Plan Act (APRA) Grant funds in the amount of \$211,747.

Ms. Houck shared an early concept drawing showing the entrance for the parking lot as well as the trail and raised boardwalk. The walking trail will be a quarter mile with the hope to get closer to a mile.

Since the purchase of the property, the Town of Ocean View has been working on obtaining grant funds to assist with the development. To date, an Outdoor Recreation Parks, and Trails (ORPT) grant from DNREC has been received in the amount of \$60,000. In addition, a Transportation Alternative Program (TAP) Grant from DelDOT in the amount of \$825,000 has been received.

Ms. Houck stated that she is present to share the success and the excitement of the property. Ms. Houck added that work has already been completed and noted that the Town of Ocean View will always maintain it. She added that the Town is seeking any additional development funds support from Sussex County to help the project.

Administrator's Report

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

1. **Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, Millville by the Sea – Peninsula Village 1-B received Substantial Completion effective March 9th.

2. **Delaware State Police Activity Report**

The Delaware State police year-to-date activity report for February 2023 is 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 191 troopers assigned to Sussex County for the month of February.

3. **Delaware Animal Services Performance Report – Fourth Quarter & Annual Report**

The Delaware Animal Services Performance Report for the fourth quarter as well as the annual report for 2022 is attached listing the total of number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total

there were 1,537 calls for service in the fourth quarter and 6,218 calls for the year.

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

**Public Hearing/
Newdale Acres Extension into SCUSSD**

A Public Hearing was held for Newdale Acres Extension Annexation into the Sussex County Unified Sanitary Sewer District (Ellendale Area).

John Ashman, Director of Utility Planning and Design reported that County Council granted permission to prepare and post notices for a public hearing on February 7, 2023. The Engineering Department received a request from Lenape Properties Management, Inc., the owners/developers of parcel 230-31.00-31.00 along Route 113 and adjacent to their existing project of Newdale Acres. The parcel has been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer service for the town. The parcel is located in the Tier 2 area for sewer service and will be responsible for System Connection Charges of \$6,600 per EDU based on current rates. The property was posted on February 28, 2023, and posted on the county website. To date, there has been no correspondence received either in support or opposition to this annexation.

There were no public comments.

The Public Hearing and public record were closed.

**M 124 23
Adopt Resolution No. R 008 23**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Resolution No. R 008 23 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ELLENDALE AREA, TO INCLUDE ONE PARCEL ON THE EAST SIDE OF DUPONT HIGHWAY LOCATED IN THE CEDAR CREEK HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

Shenandoah Cable Television, LLC Lease Agreement

Dwayne Kilgo, Director of Information Technology presented a lease agreement with Shenandoah Cable Television, LLC for Council's consideration. Mr. Kilgo reported that the lease agreement will allow Shenandoah to lease a small tract of County owned land, located at the rear of the Sussex County EMS Station #104 on Plantation Road in Rehoboth Beach.

Mr. Kilgo reported that Sussex County has been working with the State on bridging the digital divide when it comes to broadband. Mr. Kilgo explained that work has been done on this incentive for many years. He noted that when he solicited Shenandoah Cable, they didn't ask for anything from the County; they are bank rolling this on their own.

Mr. Danny Agey from Shenandoah Cable Television came forward to

provide a history of the company and what they do. Mr. Agey explained the work that the company does and where they currently serve. In addition, he noted, that they will be investing a lot of capital and will have a competitive offering. The building of this location will be completed in June with fiber installation starting sometime in the third quarter.

**M 125 23
Approve
Shenandoah
Cable
Television,
LLC Lease
Agreement**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley that be it moved that Sussex County Council approves the lease agreement with Shenandoah Cable Television, LLC and authorizes the IT Director to execute said agreement with Shenandoah as a step to providing seamless and secure broadband services within Sussex County.

Motion Adopted: 5 Yeas

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

**Great
Outdoor
Cottages
Lease
Agreement**

Bill Pfaff, Economic Development Director presented a lease agreement with Great Outdoor Cottages for Council's consideration. Mr. Pfaff added that they currently lease 7 acres in the Delaware Coastal Business Park, and they are seeking to lease an additional 4.3 acres bringing their total acreage to 11.3 acres.

**M 126 23
Approve
Great
Outdoor
Cottages
Lease
Agreement**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved that the Sussex County Council approve the second amendment and lease agreement with Great Outdoor Cottages, LLC in the Delaware Coastal Business Park located at 21498 Baltimore Ave, Georgetown, DE for an additional acreage of 4.3 acres, bringing their total lease area to 11.3 acres 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**

**Proposed
Ordinance/
Setbacks,
Building
Heights/
Through
Lots**

Jamie Whitehouse, Director of Planning and Zoning presented a Proposed Ordinance related to setbacks and building heights on Through Lots. Mr. Whitehouse shared an example of what would be considered a Through Lot. He explained that they are lots that have multiple frontages on roughly parallel streets. He explained that this can lead to uncertainty as to where you can build or what you can build. Mr. Whitehouse reported that this Proposed Ordinance will provide clarification and provide what is not permitted on the additional front yard or back of the property. The Proposed Ordinance inserts some text into the definition of what a rear yard is. In addition, it states that where you have a Through Lot, the yard opposite the entrance to the property that functions as a rear yard that has any accessory structure can not be taller than 22 feet in height.

Introduction of Proposed Ordinance Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE I, SECTION 115-4 “DEFINITIONS” OF THE CODE OF SUSSEX COUNTY REGARDING “YARD, FRONT” AND “YARD, REAR” OF THROUGH LOTS”.

Proposed Ordinance/ Amenities Vince Robertson, Assistant County Attorney presented a Proposed Ordinance related to amenities within residential developments. Mr. Robertson explained that when residential land use applications are received, there is a requirement that amenities be built by a certain point in the construction of the development. The Proposed Ordinance will make it so that they are all built to the same standard; 60% of all residential building permits. Therefore, by the time you get to your 60th building permit, all amenities must be completed.

Introduction of Proposed Ordinance Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE III, SECTION 99-21 “PUBLIC SITES AND OPEN SPACES” AND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTAL REGULATIONS” OF THE CODE OF SUSSEX COUNTY REGARDING THE TIMING OF CONSTRUCTION FOR AMENITIES IN RESIDENTIAL DEVELOPMENTS”.

T-Hangar Bldg./ Award Recommendation Mark Parker, Assistant County Engineer presented an award recommendation for T-Hangar Building, Project A22-23 for Council’s consideration. Mr. Parker explained that the project was put back out to bid due to the first bid received being out of the budgeted amount. The alternative bid structure included re-packing the T-Hangar Building to only include furnishing and installed the structure. All of the site and utility support work would be provided by a separate site contract through a direct solicitation pricing structure. There were two bids received with the low and most responsible bid being from The Whayland Company.

M 127 23 Approve T-Hangar Award Recommendation A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that T-Hangar Building, Project A22-23, be awarded to The Whayland Company in the amount of \$ 467,900.00.

Motion Adopted: 5 Yeas

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

DE Coastal Business Park/ CO No. 3 Mark Parker, Assistant County Engineer presented change order no. 3 for Delaware Coastal Business Park Improvements, Project A21-11 for Council’s consideration. Mr. Parker reported that pricing was requested from three separate reputable site contractors to cover the required site/utility support work for the project. The low-price bid was submitted by A-Del Construction.

M 128 23
Approve Co
No. 3/DE
Coastal
Business
Park

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 3 for the Delaware Coastal Business Park Improvements Project be approved to A-Del Construction in the not-to-exceed amount of \$ 319,990.00.

Motion Adopted: 5 Yeas

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

EMS Public
Safety Bldg./
CO No. 23

Hans Medlarz, County Engineer presented change order no. 23 for the EMS Safety Building, Project C19-04 for Council's consideration. Mr. Medlarz reported that the change order consists of replacing deteriorating caulking and raising of the plaza bench wall. In addition, there was some items that needed to be addressed from previous change orders.

M 129 23
Approve CO
No. 23/ EMS
Public
Safety Bldg.

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 23 for contract C19-04, Sussex County Public Safety Building, be approved, for an increase amount of \$19,180.00.

Motion Adopted: 5 Yeas

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

SC General
& Electrical
Construc-
tion/ CO No.
27 & CO
No. 22

Hans Medlarz, County Engineer presented General Construction change order no. 27 and electrical construction change order no. 22 for the South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council's consideration.

M 130 23
Approve CO
No. 27

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 and Finance Departments, that change order no. 27 for contract C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP capital improvement program, phase 2 – general construction, be approved, increasing the contract by \$88,787.72.

Motion Adopted: 5 Yeas

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

M 131 23
Approve CO

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved based upon the recommendation of the Sussex County Engineering

No. 22 Department, that change order no. 22 for contract C19-17, SCWF Treatment Process Upgrade No. 3 & RBWTP Capital Improvement Program, Phase 2 – electrical construction, be approved, for an increase of \$33,342.10.

Motion Adopted: 5 Yeas

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

**Grant
Requests**

Mrs. Jennings presented grant requests for Council’s consideration.

M 132 23 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000
Autism (\$200 from each Councilmanic Grant Account) to Autism Delaware for
Delaware their 25th Anniversary Gala.

Motion Adopted: 5 Yeas

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

M 133 23 A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500
Mariner (\$1,500 from Mrs. Green’s Councilmanic Grant Account) to Mariner
Middle Middle School (Business Professionals of America) for the MMS Business
School Professional of America 2023 NLC.

Motion Adopted: 5 Yeas

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

M 134 23 A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$500
Georgetown (\$500 from Mr. Rieley’s Councilmanic Grant Account) to Georgetown
Elementary Elementary School (GE Robotic Club) for the VEX IQ Elementary
School Robotics Challenge World Championships.

Motion Adopted: 5 Yeas

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

Introduction Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE
of Proposed TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
Ordinances AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL
KITCHEN TO BE LOCATED ON A CERTAIN PARCEL OF LAND

**Introduction
of Proposed
Ordinances
(continued)**

LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS”

Mr. Hudson reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS”

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A PRIVATE TENTING AREA TO BE LOCATED ON A 1.8 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.61 ACRES, MORE OR LESS (PORTION OF)”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A HOLISTIC THERAPY CENTER – TRANSITION HOUSE FOR RECOVERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.9 ACRES, MORE OR LESS”

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS”

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR A PROPOSED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 61.15 ACRES, MORE OR LESS”

The Proposed Ordinances will be advertised for Public Hearings.

**Council
Member
Comments**

There were no Council member comments.

**M 135 23
Go Into
Executive**

At 10:55 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session to discuss matters relating to land acquisition, collective bargaining and pending/potential litigation.

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

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

**Public Hearing/
Ordinance
No. 23-03** **A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, §99-39B.(2)(c) OF THE CODE OF SUSSEX COUNTY RELATING TO THE TIME PERIOD FOR COUNCIL TO RENDER A DECISION ON APPEAL”.**

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

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

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the Proposed Ordinance.

Mr. Whitehouse stated that when there is an appeal against a Planning and Zoning Commission decision, an appellant will submit an appeal and a fee; that they must also submit a transcript; that once the transcript is submitted to the County the time period starts; that the current time period is 60 days from receipt of the transcript; that this Ordinance will increase the time that County Council has the time to render a decision on the appeal; that the time period will be increased to 120 days.

There were no public comments.

The Public Hearing and public record were closed.

M 140 23 **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend**
Correct **line-item number 8 to change “with” to the word “which”.**
Line-Item

No. 8/Ord. **Motion Adopted: 5 Yeas**
No. 23-03

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

M 141 23 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt**
Adopt **Ordinance No. 2912 entitled “AN ORDINANCE TO AMEND CHAPTER**
Ordinance **99, §99-39B.(2)(c) OF THE CODE OF SUSSEX COUNTY RELATING TO**
No. 2912/ **THE TIME PERIOD FOR COUNCIL TO RENDER A DECISION ON**
Ord. No. 23- **APPEAL” for the reasons given by the Planning and Zoning Commission.**
03

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/
CU2374**

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 AN ESTHETICIAN BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.28 ACRE, MORE OR LESS” filed on behalf of Jose Netto and Karyne Da Silva (property lying on the west side of John J. Williams Highway [Rt. 24], approximately 0.38 mile southwest of Mulberry Knoll Road [S.C.R. 284]) (911 Address: 20036 John J. Williams Highway, Lewes) (Tax Parcel: 334-12.00-23.00)

The Planning & Zoning Commission held a Public Hearing on the application on February 9, 2023. At the meeting of February 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 8 recommended conditions as outlined.

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

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

The Council found that Ms. Mackenzie Peet, Esq., with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that Ms. Da Silva was also present; that the Applicant submitted a Conditional Use application on June 3, 2022, to pursue a Conditional Use of land in AR-1 (Agricultural Residential) district to operate an esthetician business within the existing residential structure located on the property; that an esthetician is a trained professional that specializes in skin beautification and performs skin treatments such as facials, chemical peels, body treatments, and waxing; that there is a significant demand for the proposed use; that on February 9, 2023, the applicants appeared before the Planning and Zoning Commission; that it was recommended for approval by a vote of 5-0; that the subject property is located along Rt. 24; that adjacent properties are zoned AR-1 (Agricultural Residential); that an MR (Medium-Density Residential) zoned property is located nearby; that nearby uses include residential developments, such as Saddle Ridge, Beacon Middle School, Love Creek Elementary School and Olive + Jules Hair Company; that an adjacent property to the site was the subject of a previous Conditional Use for Bee Wise, LLC, for a real estate business; that this plan is consistent with the Comprehensive Plan and all requirements of the zoning code; that

for all of these reasons, the applicant requests the Council approval.

There were no public comments.

The Public Hearing and public record were closed.

**M 142 23
Adopt
Ordinance
No. 2913/
CU2374**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to Adopt Ordinance No. 2913 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ESTHETICIAN BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.28 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The Application seeks approval for a small esthetician business within an existing structure located along Route 24. This area of Route 24 is an appropriate location for this small business use.**
- 2. The property is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area supports offices uses such as this.**
- 3. This use is compatible with area uses which include a small real estate office next door, two schools, and other residential developments.**
- 4. The use will not adversely affect nearby properties or roadways.**
- 5. No parties appeared in opposition to this Application.**
- 6. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to office space for an esthetician business.**
 - b. The use shall occur within the existing onsite structure.**
 - c. The hours of operation shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturdays.**
 - d. The use shall comply with all Sussex County parking requirements. The Final Site Plan shall designate all parking areas associated with this use. The parking may remain pervious.**
 - e. The Applicant intends to place a sign on the property as permitted by the Zoning Ordinance for Sussex County, Delaware.**
 - f. All entrances, intersections, and roadway improvements, if any, shall be completed by the developer in accordance with all DelDOT requirements, including the Transportation Improvement District (TID).**
 - g. A Revised Preliminary Site Plan, either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.**
 - h. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2376**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SWIMMING POOL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.56 ACRES, MORE OR LESS” filed on behalf of Jose Hernandez (property lying on the north side of Hollyville Road [S.C.R. 48], approximately 0.28 mile southwest of Harbeson Road [Rt. 5]) (911 Address: 23086 Hollyville Road, Harbeson) (Tax Parcel: 234-10.00-70.03)

The Planning & Zoning Commission held a Public Hearing on the application on February 9, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 10 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated February 9, 2023, and February 23, 2023.)

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

The Council found that Ms. Shannon Carmean-Burton, Esq., with Sergovic Carmean Weidman McCartney & Owens, P.A. spoke on behalf of the Application; that also present was Mr. Jose Hernandez, with Pool Stars, LLC; that the Applicant had applied for a Conditional Use of land within the AR-1 (Agricultural Residential), to operate an existing pool contracting business; that the pool contracting business is known as Pool Stars, LLC; that exhibit booklets were submitted for the Council’s consideration; that the submitted exhibits included Applicant’s proposed Findings of Fact and Conditions of Approval; that the property is located along Hollyville Rd.; that the property contains approximately 6.56 acres of land; that the property is a large, deep parcel; that the property is currently improved with a single-family residential dwelling, which is currently used and occupied by the Applicant as his primary residence; that additionally the property is improved with accessory structures, which are also currently being used by the Applicant in connection with Pool Stars, LLC; that despite Pool Stars, LLC being formed in 2021, Mr. Hernandez is not new to the pool industry; that Mr. Hernandez has provided his clients with outdoor experiences with personalized pool services for more than 15 years; that in addition to pool construction, renovation and equipment repair, Pool Stars, LLC also provide outdoor living spaces; that the proposed Conditional Use is a permitted Conditional Use under the Zoning Code; that the proposed use is compatible with the goals and directions of the Sussex County Comprehensive Plan; that the property is located within the AR-1

**Public
Hearing/
CU2376
(continued)**

(Agricultural Residential) district; that the purpose of the AR-1 district is to provide a full range of agricultural activities and to protect agricultural lands; that Conditional Uses permitted within the AR-1 district include, among other uses, agricultural related industries, as well as residential, business, commercial or industrial uses, when the purpose of the Chapter are more fully met by issuance of a Conditional Use permit; that the property is located within a Low Density area per the 2018 Sussex County Comprehensive Plan; that the Comprehensive Plan provides that the primary uses envisioned within the Low Density areas include agricultural activities and homes; that the Comprehensive Plan further provides that business development should be confined to businesses addressing agricultural and residential needs; that focus of retail and offices uses in Low Density areas should be providing convenience, goods and services to nearby residents; that the proposed use will not have an adverse impact on neighboring properties or the surrounding area and uses, as the proposed use is an extension of an existing commercial and business area; that properties located to the east of the site are zoned for Commercial; that the property directly north of the site is zoned B-1 (Neighborhood Business); that there is an existing Conditional Use located northwest of the site; that the applicant has received letters of support from neighboring property owners; that the proposed use will have no adverse impact on traffic within the area; that DelDOT did not recommend a Traffic Impact Study (TIS) be performed for the proposed use; that Pool Stars, LLC currently employ ten employees, with six business trucks; that the business trucks will be parked at the rear of the property; that the property is not open to the public; that there is no sales facility at the site; that the proposed hours of operation are Monday through Saturday, from 7:00 a.m. to 5:00 p.m.; that there is an existing sign on the property, which advertises Pool Stars, LLC; that the Applicant seeks permission to maintain the existing sign; that the Applicant does not seek any additional signs; that the Applicant is not proposing any new structures be placed on the property; that storage of pool equipment and material will be maintained within the existing structures or outside on the site; that materials such as pavers, stone, sand, and pipes will be stored outside to the side and rear of the property; that chlorine is properly stored in containers and is returned to the pool suppliers when they are empty or no longer needed; that the proposed use is of a public or semi-public character; that the use is desirable for the general convenience and welfare of neighboring properties and use within the area; that the proposed use will facilitate the Applicant's ability to reside on the property while continuing his established local business at the property; that the Applicant requests the Council recommend approval of the Conditional Use request based upon the record and the presentation.

There were no public comments.

The Public Hearing and public record were closed.

**M 143 23
Adopt**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2914 entitled "AN ORDINANCE TO GRANT A

**Ordinance
No. 2914/
CU2376**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SWIMMING POOL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.56 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

- 1. The Applicant seeks approval of Conditional Use to operate a swimming pool business located on the property where he resides.**
- 2. The site is located in the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area allows small businesses such as this one.**
- 3. There are other commercial and light industrial type uses in the vicinity of the land that is the subject of this application. This small business use will be consistent with those other types of businesses and uses in the area.**
- 4. The use will not have an adverse impact on neighboring properties or area roadways.**
- 5. The use has a semi-public character by providing support for commercial and residential pools throughout this area of Sussex County from a convenient location.**
- 6. No parties appeared in opposition to this application.**
- 7. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to a swimming pool business. No other business shall be conducted from the site.**
 - b. As stated by the Applicant, no sales shall occur from the site.**
 - c. The hours of operation shall be from 7:00 a.m. until 5:00 p.m., seven days per week.**
 - d. All trucks, equipment, and materials associated with the use shall be located at the rear and side of the property. The locations for these items shall be shown on the Final Site Plan and clearly marked on the site itself.**
 - e. All dumpsters shall be screened from the view of neighboring properties and roadways.**
 - f. All lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
 - g. One lighted sign shall be permitted. It shall not be larger than 32 square feet on each side.**
 - h. All chemicals associated with the use shall be properly stored and disposed of in accordance with all State and Federal requirements.**
 - i. The Applicant shall comply with all applicable DNREC, DelDOT, and Sussex Conservation District requirements associated with the use.**
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

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

**M 144 23
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at
1:54 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.}