

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 28, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 28, 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
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 145 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, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from March 21, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

Public comments were heard.

**Public
Comments**

Ms. Susan Petze-Rosenblum spoke about buffers and clear cutting.

Mr. William Kinnick thanked Council for a grant received. He spoke about sewer and water issues that are going into the Nanticoke River.

**Delaware
Department
of**

DelDOT Secretary Nicole Majeski and DelDOT Deputy Secretary Shante Hastings provided an update of projects in Sussex County.

**Transport-
ation Update**

Ms. Majeski shared a chart outlining the 2023 Delaware traffic fatalities which is updated weekly. Ms. Majeski reported that to date, there has been

**Delaware
Department
of
Transport-
ation Update
(continued)**

31 facilities which is a decline from last year. Staff analyzes each crash to determine things that can be done from an engineering standpoint to make roads safer.

Ms. Majeski reported that there was legislative passed last session to increase the enforcement of tractor trailer parking. This allows for law enforcement to enforce illegal truck parking. In addition, additional truck parking is being looked into so that truckers have a place to go and park safely so they are not on the side of the road. Automated speed enforcement was also piloted this year. It was reported that currently, we do not have the ability to do this in our State, but it was requested through the bond bill to provide the authority to pilot it along the I-95 Restore the Corridor project in Wilmington. Ms. Majeski discussed the initiatives that are currently used such as rapid flashing beacons for pedestrian access, rumble strips, dynamic chevrons, cable median barrier and HFST on curves. Ms. Majeski explained new technology that has been piloted on Route 1 to deploy if someone were to enter a ramp the wrong way.

Ms. Majeski reported that with Delaware being a low-lying state which makes flooding a concern. She discussed frequently flooded roadways and the efforts to mitigate the flooding. In addition, she discussed funding that was received for EV charging stations and where they are planned to be placed. Ms. Majeski discussed the issue of littering on the roadways that is increasing each year throughout the state.

From a transit standpoint, the beach bus will be back in operation on May 22nd. In addition, all-electric buses continue to be deployed into the fleet; by the end of this year, 11% of the fleet will be all-electric. DART connect continues to be successful.

Ms. Majeski discussed the multi-modal projects that are in design with construction to start within the next two years in Sussex County. She further discussed DelDOT's partnership with the County for Land Use. Ms. Majeski pointed out that DelDOT owns and maintains 90% of the roadways, however, the County has the land use decisions. The Henlopen Southeast Sussex/Roxana TID's and Coastal Corridors Study were discussed.

The MOU between the County and DelDOT was updated on September 22, 2020. Ms. Majeski discussed the FY23-28 CTP information that is updated every two years. It is planned to spend \$4.45B over the next six years.

Ms. Hastings discussed and provided project highlights ongoing in Sussex County. The Route 54 bridge will be fully replaced and will be reconstructed in halves to allow one lane open to traffic. She then discussed work that is underway or planned for the Route 1, US113, Route 24 and Route 9 Corridor projects. An update was also provided for the Cave Neck/Hudson/Sweetbriar intersection project.

**Adminis-
trator’s
Report**

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

1. Holiday and Council Meeting Schedule

A reminder that Council will not meet on Tuesday, April 4th, or Tuesday, April 11th. In addition, County Offices will be closed on Friday, April 7th, to observe the Good Friday holiday. The next regularly scheduled Council meeting will be held on Tuesday, April 18th at 10:00 a.m.

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

**Public
Hearing/
Proposed
Ordinance/
Amend
Budget/
Kitchen
Incubator**

A Public Hearing was held for a Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT”.

Mrs. Jennings reported that the kitchen incubator will soon be opened. In order for that to occur, a budget amendment is needed to include the fees.

Bill Pfaff, Economic Development Director reviewed the proposed fees.

There were no public comments.

The Public Hearing and public record were closed.

**M 146 23
Adopt
Ordinance
No. 2915/
Kitchen
Incubator**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 2915 entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2023 TO INCORPORATE NEW FEES AND EXPENSES FOR THE KITCHEN INCUBATOR PROJECT”.

Motion Adopted: 4 Yeas, 1 Absent

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

**ARPA
Update**

Gina Jennings, Finance Director presented an update on the American Rescue Plan Act. Ms. Jennings reviewed the timeline of the funding. She then reviewed the County’s established goals for allocation. The project must meet ARPA requirements and be completed or under contract by December 31, 2024. In addition, the plan was to not “grow” government with these temporary funds, duplicate efforts and have the projects align with Council priorities. The allocations of funds was shown and discussed.

Mrs. Jennings discussed the non-profit grant program that was rolled out

ARPA Update (continued)

last year to assist with large projects. The housing and low-income programs funds were then discussed. There was a direct buyer assistance program, development loan fund and rehabilitation funds (with clean-hands assistance).

Mrs. Jennings shared a chart showing the original allocation, amount spent to date, amount expected to be spent through December 2024 and the amount that could be repurposed. The recommendation is to have a new non-profit grant program adding another \$1M. Additionally, add more money for the low-income rehabilitation program (\$1M) and low-income buyer assistance program (\$600,000).

Mrs. Jennings discussed the qualifications for the new non-profit ARPA small grant program. The grant application process for the small ARPA grant program and second grant application for housing development will be opened up on April 3rd.

Permission to Prepare & Post Notices/ Forest Landing

John Ashman, Director of Utility Planning and Design presented a request for permission to prepare and post notices for Forest Landing (Ellendale Area).

The Engineering Department received a request from Davis, Bowen & Friedel, Inc. on behalf of their client OA Forest Landing, LLC, owners/developers of parcels 230-19.00-112.00 & 230-20.00-12.00 along N. Old State Road. The parcels have been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer for the town. The parcels are located in the Tier 3 Area for sewer service and with annexation into the town Sussex County is the best option for service. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.

M 147 23 Approve Permission to Prepare & Post Notices/ Forest Landing

A Motion was made by Mrs. Green, seconded by Mr. Hudson, that be it moved that the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Forest Landing expansion of the Sussex County Unified Sanitary Sewer District to include parcels 230-19.00-112.00 & 230-20.00-12.00 as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

Grant Requests

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

M 148 23 Nanticoke Senior Center

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,500 (\$2,500 from Mr. Vincent's Councilmanic Grant Account) to the Nanticoke Senior Center for a new sound system.

Motion Adopted: 4 Yeas, 1 Absent

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

M 149 23 A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$1,000
H.O. (\$1,000 from Mrs. Green's Councilmanic Grant Account) to H.O.
Brittingham Brittingham Elementary School for their Robotics World Championship.
Elementary
School

Motion Adopted: 4 Yeas, 1 Absent

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

M 150 23 A Motion was made by Mrs. Green, seconded by Mr. Rieley to give \$1,500
H.O. (\$1,500 from Mrs. Green's Councilmanic Grant Account) to H.O.
Brittingham Brittingham Middle School for their Robotics World Championship.
Middle
School

Motion Adopted: 4 Yeas, 1 Absent

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

M 151 23 A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,000
Cape (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$500 from Mr.
Henlopen Rieley's and \$500 from Mr. Hudson's Councilmanic Grant Accounts) to
Senior Cape Henlopen Senior Center for their Rehoboth Concert Band
Center Fundraiser.

Motion Adopted: 4 Yeas, 1 Absent

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

M 152 23 A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$2,000
Fraternal (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from
Order of Mr. Hudson and \$500 from Mr. Rieley's Councilmanic Grant Accounts) to
Police Fraternal Order of Police of Sussex County Lodge No. 2 Inc. for their
Sussex charities supported by the FOP Lodge #2 program.
County

Lodge No. 2 **Motion Adopted: 4 Yeas, 1 Absent**

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

**Introduction
of Proposed
Ordinances**

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL DISTRICT TO AN LI-1 LIMITED INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14.426 ACRES, MORE OR LESS” filed on behalf of John H. Legg.

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AC-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS” filed on behalf of Waste Management of Delaware Inc.

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM ON A 23.357 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 53.891 ACRES, MORE OR LESS” filed on behalf of Consolidated Edison Development, Inc.

The Proposed Ordinances will be advertised for Public Hearings.

**Council
Member
Comments**

There were no Council member comments.

**M 153 23
Go Into
Executive
Session**

At 11:11 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

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

**Executive
Session**

At 11:25 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 11:32 a.m.

**M 154 23
Reconvene**

At 11:33 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

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

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

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

M 155 23 **At 11:34 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson**
Recess **to recess until 1:30 p.m. Public Hearings.**

Motion Adopted: 4 Yeas, 1 Absent

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

M 156 23 **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mrs. Green**
Reconvene **to reconvene.**

Motion Adopted: 4 Yeas, 1 Absent

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

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

Public **A Public Hearing was held on a Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**
CU2366 **1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME**
 FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN
 PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED,
 SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS”
 (property lying on the north side of Boyce Road [S.C.R. 547], approximately
 0.15 mile east of Neals School Road [S.C.R. 553]) (911 Address: 4973 Boyce
 Road, Seaford) (Tax Map Parcel: 531-9.00-7.03) filed on behalf of Impact
 Life, Inc.

The Planning & Zoning Commission held a Public Hearing on the
application on February 23, 2023. At the meeting of March 9, 2023, the
Planning & Zoning Commission recommended approval of the application
for the 9 reasons stated and subject to the 13 recommended conditions as
outlined.

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

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

The Council found that Mr. Bradley Owens spoke on behalf of the

**Public
Hearing/
CU2366
(continued)**

Application; that he is the executive director of IMPACT Life, Inc.; that the organization is opening a sober living house; that the proposed property is a farm consisting of 17 acres; that the application is to increase the number of beds allowed in the dwelling from 10 to 13 beds; that this will allow the program to help three additional women; that the house is staffed 24/7; that it is considered a 3.1 treatment facility; that it is staffed with clinical staff, case management and peer support staff; that there will be live animals including goats and pigs; that there will be a full-time farm educator; that this is one of eight properties that they manage state-wide; that there are about 30 staff total and they continue to grow; that the curfew was questioned; that a 8:00 p.m. curfew was recommended by the Planning and Zoning Commission; that farm care especially in the summer time can go beyond 8:00 p.m.; that the residents will be responsible for the farm duties; that their other house that is next on the agenda had a similar condition, however, the curfew was set at 10:30 p.m.; that he believes something similar would be fair; that the farming operation is part of the treatment.

Mr. Rieley questioned the need for the additional three beds. Mr. Owens replied that there is a need; that if three more people can be served than they desire to do that; that they have the space and staff to provide it.

Public comments were heard.

Ms. Domenica Personte spoke in favor of the application; that she is the CEO of IMPACT Life, Inc.; that she is an individual in long-term recovery; that she has served, in some capacity, within Delaware for 25 years; that this will be traditional residential care; that a licensed therapist, peer support, farm care coordinator, women's care coordinator and children's care coordinator will be there 24/7; that there is about 10 leadership staff members that are all accessible; that they follow the standards of the NARR; that the beds must be 5 feet apart; that there cannot be any bunk beds; that the house is about 4,000 square feet; that Delaware is number 2 right now for overdose fatalities; that the extra three beds will allow for three additional women to receive treatment and be in a safe space; that she was in a program like this when she was 18 years old; that she participated in a program called Bayard House in Wilmington; that the program offered her the most lifechanging experience, by providing life skills she needed; that the Application proposes to make the 17 acre farm a safe environment, allowing the program to teach mothers the life skills needed.

Ms. April Calloway spoke in opposition of the application; that these recovery homes do not fit into every community; that with these types of services, come with some certain undesirable situations; that she believes that there needs to be a change to the zoning laws while these facilities are given grants and contributions to purchase homes; that property values will impact the property owners in the area; that it can take 30 minutes or more for state police to respond; that she questioned what would happen if one of the residents abusive husbands or boyfriends come looking for them; that she questioned the security that would be provided for the residents to

**Public
Hearing/
CU2366
(continued)**

protect them; that she questioned if IMPACT Life would be financially responsible for any damage done to neighboring properties by their residents; that she questioned the septic situation; that IMPACT Life states they want to form relationships with their communities they move into, however, the community has been lied to by them; that it was told that this facility would only house recovering alcoholic woman; that they are now they are stating that they will be recovering from all drug substances; that it was told there would only be 10 people in the facility and now they want 13 people; that she believes that they will continue to come back requesting for more people for this facility; that she was not initially told that the request was to allow the woman to bring their children; that request was never spoken of before the zoning meeting; that the home has small bedrooms; that the home does not have a large dining room to accommodate large family meals; that the ideas provided for this project will require them to ask for more space to build to accommodate the residents; that she questioned if the 13 included the people that must stay and work there overnight; that she questioned where those people would stay; that there is no transportation available to their residents; that it is not within walking distance to medical care or food; that she has fears of who will be walking their roads; that the people in her community choose to buy or build their homes in the country for a reason; that they wanted a peaceful place to raise their children and go outside without fear; that she is requesting that the Council deny the application; that she was given no say in this facility coming to her community; that the community deserves for their voices to be heard on how many residents they can accommodate; that permeant residents in the community vote for who they want on Council; that the residents of the recovery facility do not vote.

Mr. Dale Short spoke in opposition of the application; that he does not understand why they are requesting to change the curfew; that farming is mostly done before 8:00 p.m.; that there is a big pond in the back of the property; that nothing has been discussed about the safety for the children relating to the pond; that he expects the value of his property to decrease; that he has lived in the aera for almost 30 years; that he had to work hard for what he has; that if more beds are given, it changes the safety in the neighborhood.

Ms. Chelsea Mulford spoke in opposition of the application; that she requested that the increased number of residents not be approved; that they stated in the last hearing that transportation is hard in this area; that there is no transportation in place for the residents; that there is not enough room there currently to support the number of people; that they will need to add more space to accommodate more residents; that there is entirely too many uncertainties around this agenda; that they have only cared about their agenda since day one and not the community or residents surrounding the property; that the only people that have come to their defense is people that work for or are apart of their group; that not one from outside of their group or community have spoken in support; that they will continue to ask for more and more people to live here; that it is a quiet country setting; that

**Public
Hearing/
CU2366
(continued)**

they did not do their research on this area; that there is a registered sex offender a few houses down; that she questioned what type of security measures are in place for the children; that there are too many unanswered questions; that people are being brought from other states; that there is not proper manpower with state police; that it takes thirty minutes to an hour for state police to respond; that there is no trust with the organization due to lies that have been told; that this is something that she does not want in her community.

The Public Hearing and public record were closed.

**M 157 23
Open Public
Hearing &
Record
Up/CU2366**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to open the public hearing and public record back up.

Motion Adopted: 4 Yeas, 1 Absent

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

Mr. Rieley questioned what was going to be grown on the farm and if the curfew meant that you have to be in the house or just on the property; that Melissa Sellers came forward; that she is the farm educator; that the assumption was that you have in the house; that children will not come to the house right away; that it will only be woman; that it is planned to have all sorts of livestock; that currently there are goats and pigs; that they plan to get sheep, rabbits and cows; that there is a 2-acre garden.

Ms. Domenica Personte came forward; that it is not planned to have children at the property until it is determined how to fence in the pond; that the pond goes to ten feet; that federal funds were received to allow them to expand it to women with children; that originally with the state, it was a program just for women; that it is not planned to have children in the house until the pond is secured; that there is a mommy and me house in Seaford; that house does not always sit at occupancy so there is available there; that the plan is for that to be the step down house; that the bed configuration changes based on the number of women that are in the house and the amount of children that each woman has; that they try to go with single rooms and they allow up to two children 12 and under for every woman who is there; that the rooms are set up as all doubles with the exception of the house manager who gets their own room; that the request is for 13 with the ability to adjust the configuration accordingly based on a mom that comes in with her children; that the understanding is that they would be in single rooms; that an adult bed would be given up if a woman came in with two children; that the house looks different than the floor plan; that some of the rooms are bigger than they originally were; that children would not be placed in a room with a stranger adult; that there are partnerships that can be used if needed; that a woman and her children would be in a room together with no other adult; that they do have vans available; that

residents are not allowed to go off the property without staff.

The Public Hearing and public record were closed.

**M 158 23
Defer
Action/
CU2366**

A Motion was made by Mr. Vincent, seconded by Mr. Hudson to defer a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2367**

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 GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS” (property lying on the east side of Hurdle Ditch Road [S.C.R. 290], approximately 0.28 mile north of Hollyville Road [Rt. 48]) (911 Address: 22703 Hurdle Ditch Road, Harbeson) (Tax Map Parcel: 234-10.00-69.01) filed on behalf of AtTack Addition Foundation.

The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 14 recommended conditions as outlined.

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

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

The Council found that Mr. Don Keister spoke on behalf of the Application; that he represents the Applicant, AtTack Addiction Foundation; that the Conditional Use request is to increase the number of residents for their fourth recovery residence, located in Harbeson; that currently it is approved for ten residents; that three of which would be house managers; that it being requested that the number be increased to 16; that the organization obtained the property through a grant procedure, which was conducted by the Delaware State Housing Authority, by a project they call

**Public
Hearing/
CU2367
(continued)**

the Recovery Housing Project (RHP); that the deed states the organization must maintain the house as a recovery residence for 20 years; that the Application was submitted on November 30th, 2021; that settlement was conducted on May 20th, 2022; that the interior of the home is just under 6,000 sq. ft.; that the property is comprised of just under two acres; that the property is zoned AR-1 (Agricultural Residential); that meetings were set up by Representative Ruth Briggs King to discuss the project; that there were two formal meetings and several informal meetings; that the neighbors presented a list of requests which have been provided to the Council along with their replies; that the future residents have the potential to make a real difference in Sussex County; that the interior of the dwelling has been adapted to provide offices, bedrooms for the housing managers, large meeting spaces, exercise area and room for individual counseling sessions; that the residence is handicap accessible; that the large lot would provide several opportunities for gardening and exercise; that the space provided is more than adequate to house 16 residents; that the proposed use is a vital need in Sussex County; that this need has been recognized in the past three quarters of 2022, as reported by the Delaware Drug Monitoring Initiative, there are 85 drug related deaths; that the final results for 2022 have not yet been reported; that in the third quarter alone, 968 drug arrests were made in Sussex County; that the new residence, located in Harbeson, will be considered a NARR Level 4 residence; that the residence will also be considered a 3.1 residence according to Audience American Society of Addiction Medicine (ASAM); that the proposed property, along with the proposed property for IMPACT Life, Inc, will be the first 3.1 ASAM residence located in Sussex County; that both properties are subject to a host of State guidelines, which can be found with the 6001 Substance Abuse Facility Licensing Standards; that these regulations help promote the health and wellbeing of consumers/clients receiving services in substance abuse treatment centers located within the State; that there are 19 standards within the required guidelines, which AtTack Addiction and IMPACT Life must adhere to in order to remain licensed; that Ms. Dominica Personte with IMPACT Life, Inc. will be operating the residence for AtTack Addition; that Ms. Personte has been a fixture within the recovery community for many years; that Ms. Personte is highly respected throughout the State; that Ms. Personte was recently the CEO of a property owned by Recovery Centers of America; that part of the licensing requirements, is to maintain staff, 24 hour, seven days per week, 365 days per year staff, to monitor the facility; that staff will include one part-time physician, being a licensed Practitioner, to be onsite during the day, and on-call around the clock when not onsite; that additional staff will include several house managers, with someone awake to provide supervision around the clock; that there will be several persons available to establish provision, support and a safe environment for the residents; that the need for this assistance in Sussex County is evident; that by supporting additional residents at the Harbeson location will benefit the citizens of Sussex County, especially those individuals who will be able to receive help; that both organizations have demonstrated their ability to provide meaningful opportunities to persons with Substance Use Disorder, in a safe,

**Public
Hearing/
CU2367
(continued)**

healthy and supportive environment; that the Harbeson residence will be inspected, licensed and under the direct supervision from the State; that increasing the density of the proposed property, will allow six additional residents within Sussex County to receive suitable treatment and support; that the dwelling is capable of accommodating the requested number of residents, while providing adequate space, programs and safety; that the organization provides meaningful programs for their residents; that the residents are not criminals, they are not bad people; that the residents are sick people, who are taking steps to become well, and take back their life; that he requested the Council grant approval, allowing the program to additional Sussex County residents.

Public comments were heard.

Mr. Adam Center spoke in support of the application; that he is a social worker; that he has been invited to work with IMPACT Life; that he has been working in the field of addiction for the past decade; that he has witnessed a lot of challenges and stigma; that he understands the concerns being expressed; that the recovery and victories are not discussed enough; that there is now more data about recovery; that he is looking forward to the opportunity to help.

Mr. Joe Gordan spoke in opposition of the application; that that he resides approximately 120 yards from the property; that since he was made aware of the half-way house, he has learned many new things, such as NIMBY (Not In My Back Yard) and NARR (National Alliance Recovery Residences); that he had also learned that his current neighbors are good people, with good hearts; that they too, have lost loved ones, and have had to live lives where their friends and family's lives were destroyed because of the opioid epidemic; that no one denies that individual need help; that there is a right way and wrong way of doing everything; that they need reassurances that the needs and wellbeing of the community are being addressed, as well as the needs and wellbeing of the participants in the program; that the community has worked hard together, to create a quiet, peaceful neighborhood; that each of them have moved to the area, because they feel safe and the value the peace and quiet the area brings; that the community's primary concern is that the peace and quiet that they worked hard to create will be disrupted or compromised by the presence of the program; that for months, AtTack Addiction proceeded to establish the assisted living facility with absolutely no contact with the neighborhood; that it was only by word-of-mouth the community became aware of the proposed use; that meetings were not scheduled by AtTack Addition, but rather by Representative Ruth Briggs King, per the community's request; that per the briefing of St. Leonard's Society of Canada, it was stated to be successfully integrated into a community, a half-way house needs a public that understands the purpose and neighbors who are comfortable with its procedures; that from the community's perspective, AtTack Addition did not do their due diligence in preparing their neighborhood for their assisted living facility as documented by nearly every recovery residence

**Public
Hearing/
CU2367
(continued)**

organization; that by eliminating this important step, they have unfortunately created additional resentment and lack of trust towards AtTack Addition, as well as fear against future participants; that there are concerns of safety; that an average police response time on a good day is about thirty minutes; that NARR Standard 3.0 states responsiveness should be provided to neighbors' concerns; that Principal J states the organization should be a good neighbor; that the NARR Code of Ethics states that operators are to maintain an environment that promotes the peace and safety of surrounding neighborhood and the community at large; that they collectively feel that AtTack Addition has not been a good neighbor and did not take the community's concerns seriously; that their next door neighbor is a woman with PTSD from being attacked from fellow serviceman; that Don still refused to finish the fence around the property; that the neighbor across the street is doing everything that she can to hold onto her fragile, function existence; that he questioned if they thought about the affect that they are having on their neighbors; that that it stands to reason that the more residents there are in the house, the more likely there will be a conflict; that NARR Code of Ethics states a safe, homelike environment should be provided, while meeting NARR standards; that in his opinion, 16 residents is too many to allow for a homelike environment; that one study, published in the Journal of Substance Abuse Treatment, analyzed factors associated with positive outcomes of sober living houses; that the study found that facilities having a smaller number of residents were associated with higher rates of employment, which could reflect the benefits of low resident to staff ratio, with greater focus and attention afforded to each individual; that similar to class sized in school, the community would much rather see lower numbers, with a higher success rate, than a higher number of participants with a lower success rate; that based on the meetings had with AtTack Addition, it was much as said, the federal government wants this, and there is not much anyone can do; that the community hopes that this is not the case; that they hope that everyone's concerns will be addressed; that at a August 30, 2022 meeting, it was stated that it would start with 10 participants and increase to 13 next year; that he requests that it start with no more than 10 participants; that the success rate has not been shared or what they expect it to be; that a success rate of 33% was mentioned; that the residents may fall back into the drug lifestyle which would affect the safety of the neighborhood; that he believes that the conditional use should state that residents should not have been convicted of any sex offense, any violent offenses as defined in Title 11 of the Delaware Code and all participants are to come from Sussex County; that the need is understood; that he encourages the house to start with 10 participants and then apply for additional participants.

Ms. Norma Kline spoke in opposition of the application; that she resides directly adjacent to the site; that she is an Iraq Veteran; that she is a survivor of military sexual trauma; that anytime there is a gathering of men, it stresses her out; that her and her husband do not go where there is a lot of people; that her goal is to stop the approval of more than ten men being permitted to reside at the property; that her safety concerns have

**Public
Hearing/
CU2367
(continued)**

increased; that her post traumatic stress (PTSD) will increase; that as a veteran, loud noises trigger her; that she fears the residents may get fireworks for the Fourth of July; that she feels that they should have come over and introduced themselves when they purchased the home; that the fence only goes half way down the property; that the fence does not go to the back; that they can go around and peep at anytime because there is no closure; that she does not feel protected; that during the meeting, it was said that the residents could go do whatever they want without a staff member; that she does not go outside in the dark; that she requested it stop at ten people; that she moved to this house because she felt safe and secure; that she no longer feels safe; that she has seen people that go back and do the drugs.

Mr. Carl Thomas spoke in opposition of the application; that he is currently building a home about 150 feet away; that he was made aware of the home through his neighbors; that the group reached out to AtTack Addition on several occasions to arrange meetings seeking information of their plans; that four meetings were scheduled; that their principals showed up to two of those meetings; that at these meetings, nothing was presented in writing; that they contradicted their written home standards at the PZ hearing regarding transportation; that if you look on their website, it repeatedly states that there is no transportation; that the narrative is changed as it suits; that the nearest area to access DART transportation is 4.2 to 4.4 miles away in either direction; that the area roads are not conducive to walking or bicycle pedestrians; that Zillow, the real estate site, rated the roads a zero out of 100 relating to walking suitability; that Zillow rated a 26 out of 100, relating to biking suitability; that Ms. Personte was not able to provide any information as to the success rates for their homes; that Ms. Personte did state about a 33% success rate; that they have been unable to provide any written documentation to their claims; that the national average for relapse is 40-60%; that as a RN, he finds it unsettling that there is not a written plan of action for these patients; that he works as a nurse in an Intensive Care Unit; that he sees the criminal activity that comes with substance use disorder; that over 75% of patients are either incarcerated or have police or P&P involved in their case; that many offenders commit a crime under the influence of drugs; that violent offenses are done to get drugs or get money for drugs; that his concern is because of the high occurrence of criminal activity, what is going to be done to get these people out of the community; that they have no written procedures of transporting residents who relapse away from the facilities; that there is a petition signed by 65 property owners that was submitted; that they all oppose the expansion of the home at this time; that there are young children, mentally and physically handicapped and elderly in the area; that there is a home across the street with five children under the age of 13; that there is not sufficient parking for the staff and residents; that there is not a site plan addressing parking and trash receptacles location has been submitted; that the septic system is not adequate for the proposed number of residents at the current number of 10; that at the current capacity, they have enough for only 6 residents; that is being requested that Sussex County require

**Public
Hearing/
CU2367
(continued)**

compliance with current regulations; that it is being requested that the home be kept at its current capacity of no more than 10 until a track record of success is established for a period of no less than 3 years operating at capacity.

The Council found that Mr. Daniel Oliveria spoke in opposition of the Application; that he is building a house across the street; that he is concerned about this project; that he has a daughter and wife that would be home alone; that he has a concern about the safety; that he questioned that when the school bus comes home and the safety of the children; that there is a lot of conflicting information; that he understands the substance disorder and what it can do to a family; that he believes that the increase of residents is harming the nearby neighbors; that he does believe that they should be able to increase the number of beds; that all of the concerns of the neighbors were not met; that the fence was not completed; that he would like the curfew to be 8:00 p.m.; that he would rather than the 10 people with no conditions than the 16 people with conditions.

Mr. Rieley questioned if transportation was provided. Ms. Personte replied that both programs have purchased vans that will be specific to the Harbeson house. She added that they must be with staff when leaving the house. It was added that the fence can be completed fenced in if desired. Ms. Personte reported that sex offenders are not accepted into this program and this house will not take any sex offenders. She added that there are talks for one house in New Castle County that will be a sex offender residence.

The Public Hearing and public record were closed.

**M 159 23
Defer
Action/
CU2367**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2371**

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 BUSINESS PARK TO INCLUDE WAREHOUSES AND OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 22.29 ACRES, MORE OR LESS” (property lying on the southwest side of

**Public
Hearing/
CU2371
(continued)**

Prettyman Road [S.C.R. 254] approximately 0.52-mile northeast of Lewes Georgetown Highway [Rt. 9] (911 Address: N/A) (Tax Parcel: 235-30.00-6.00) filed on behalf of Georgetown Business Plaza, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 16 recommended conditions as outlined.

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

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

The Council found that Ms. Mackenzie Peet, Esq. with Saul Ewing, spoke on behalf of the Application; that also present on behalf of the Applicant were Mr. G. Michael Glick, Vice President of Lighthouse Construction, and Mr. Jamie Sechler, Professional Engineer with Davis, Bowen & Friedel, Inc.; that the Applicant submitted a Conditional Use application to pursue a Conditional Use of land within the AR-1 (Agricultural Residential) Zoning District, for a business park to include warehouses and office buildings to be located on a very uniquely shaped property; that the property consists of a 22.285-acre parcel, located on the southwest side of Prettyman Road and the northwest side of Rt. 9; that the proposed use is a business park intended to be developed in two phases; that Phase 1 will consist of two medical and professional office buildings, with a total area of 39,520 sq. ft., to be located on a 2.8-acre portion of the site; that to the rear of the property, seven flex buildings are proposed as Phase 2; that the flex spaces would consist of offices and warehouse spaces, being located on 8.269 acre portion of the property; that leaving the remainder of the property as residual land; that parking calculations for each phase are reflected on the cover page of the revised plan; that the parking is proposed behind the proposed buildings; that central parking is proposed within the flex space portion of the property; that the flex spaces is proposed to be for office and warehouse space; that the Code defines an office as “a room, or group of rooms used for conducting the affairs of a business, profession, service industry or government and generally furnished with desks, tables, files and communications equipment”; that the Code also defines a warehouse as “a building use primarily for storage of goods and materials”; that the use of each flex building may consist of just office or warehouse space, as defined in the Code, or a mix of each, depending on the demand of the end user; that the property will be accessed from Rt. 9; that currently, for the development of the proposed portion of the site, there is no intention to utilize the Prettyman Rd. access, primarily for the reasons is that portion of the property is not the subject of the current Conditional Use request; that to gain access from the Conditional Use area to Prettyman Rd., existing vegetation would be required to be cleared; that the Prettyman Rd. access is

**Public
Hearing/
CU2371
(continued)**

more of a private driveway; that there are easements recorded that benefit the property owners who live along Old Wood Dr.; that the developer desires to ensure service oriented traffic does not travel through the residential area; that the access may serve as an emergency access for future development of the parcel; that the Applicant submitted an Exhibit Booklet, which was prepared by DBF, Inc.; that the Exhibit Booklet included, a project overview, a data column, the Conditional Use application, the original Site Plan, the amended Site Plan and the Landscape Plan; that she requested a change to Condition A and Reason 1.

There were no public comments.

The Public Hearing and public record were closed.

**M 160 23
Amend
Conditions/
CU2371**

A Motion was made by Mr. Rieley, seconded Mr. Hudson that No. 1 be changed to warehouse and/or office and 8A be changed to warehouse and/or office.

Motion Adopted: 4 Yeas, 1 Absent

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

**M 161 23
Adopt
Ordinance
No. 2916/
CU2371**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2916 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BUSINESS PARK TO INCLUDE WAREHOUSES AND OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 22.29 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning and Zoning Commission as follows and amended by this Council:

1. The site is located along Route 9, which is classified as a Principal Arterial Roadway in Sussex County. This use is appropriate for this location. This Application seeks approval of two medical or office buildings closest to Route 9 with warehouse and/or office space in buildings behind them.
2. The use is situated on a part of a larger 22.285-acre parcel of land. This conditional use shall only be located on the eastern portion of the site as depicted during the public hearing. The remainder of the site shall not be developed without an additional public hearing.
3. There are other small businesses and structures in the area including a similar project nearby approved as Conditional Use #2290. It is also near the Route 9 and Harbeson Road intersection. There are various zoning districts in this area, including MR, C-1, CR-1, and C-2. With the limitations placed upon it, this use is compatible with the surroundings.

**M 161 23
Adopt
Ordinance
No. 2916/
CU2371
(continued)**

- 4. DELDOT has stated that traffic generated by the proposed use will be minor and will not have a negative impact on the neighboring properties or roadways.**
- 5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 9 that is convenient for residents and small businesses.**
- 6. The property is located in the Low-Density Area according to the Sussex County Comprehensive Plan. The conditional use is consistent with the Plan's guidelines for the Low-Density Area, since it will provide convenient areas for businesses addressing the needs of homeowners and property owners in this area of Sussex County.**
- 7. The site is served by central water and sewer.**
- 8. This recommendation is subject to the following conditions:**
 - a. The project shall consist of 2 medical or professional office buildings fronting on Route 9 and 7 warehouse and/or office buildings behind them.**
 - b. No businesses that primarily involve or are similar to the following uses shall be permitted: retail; gyms or fitness centers; breweries or brewpubs; or restaurants and food service.**
 - c. This conditional use is limited to the eastern portion of the site as depicted during the public hearing. The remainder of the site shall not be developed without an additional public hearing. The Preliminary and Final site plans shall clearly depict limits of this conditional use.**
 - d. There shall not be any outside storage, including boats, construction materials, RVs, or equipment within the site.**
 - e. No vehicle repair or fueling operations shall be performed on-site.**
 - f. There shall be no manufacturing on the site, and any contractor work shall only occur indoors.**
 - g. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - h. A 20-foot landscaped buffer shall be installed along the perimeter of this project. The buffer shall comply with the planting requirements for the Forested and/or Landscaped Buffer Strip contained in Section 99-5 of the Sussex County Code.**
 - i. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
 - j. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
 - k. There shall be an adequate parking area for all tenants and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. There shall be no parking within the property's setbacks.**
 - l. Signage for the Property shall comply with the following requirements: One indirectly illuminated on-premises ground sign shall be permitted along Route 9, not to exceed 64 square feet of sign**

**M 161 23
Adopt
Ordinance
No. 2916/
CU2371
(continued)**

- area per side; and one On-premises wall, illuminated awning, marquee, or projecting sign with a total sign area of 32 square feet shall be permitted with respect to each building.
- m. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas. The landscape plan shall also identify all “Limits of Disturbance” within the Property. These “Limits of Disturbance” shall be clearly marked on the Property itself.
 - n. There shall not be any access to this site from Prettyman Road.
 - o. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - p. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CZ2003**

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 HI-1 HEAVY INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING INNORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR LESS” (properties lying on the west side of Sussex Highway [Route 13] and the north side of E. Newton Road [S.C.R. 584]) (911 Address: N/A) (Ta Map Parcels: 530-16.00-11.00 & 12.00) filed on behalf of KAR Farming Company, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on February 23, 2023. At the meeting of March 9, 2023, the Planning & Zoning Commission recommended approval of the application for the 11 reasons as outlined.

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

The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Application and the Applicant, KAR Farming Company, LLC; that KAR Farms is a subsidiary of Mountaire Farms; that also present were the President of Mountaire, Mr. Phillip Plylar, the Vice President of Operation Services, Mr. Scott Thompson, the Community Relations Manager, Mr. Zach Evans, , the Director of Communications, Ms. Catherine Bassett, the Senior Director of Engineering Scott Heavner, the Regional Feed Mill Manager Will West, and the Director of Grain Facilities, Mr. Samuel Parker; that the property is located immediately west

Public
Hearing/
CZ2003
(continued)

of Rt. 13, being immediately north of E Newton Rd., which is also known as Rt. 404; that the Application seeks to change the zoning of two parcels which consist of 167 acres from AR-1 (Agricultural Residential) to HI-1 (Heavy Industrial); that should the Application be acted favorably upon, the proposed use will create 87 full-time employment positions in the very important agribusiness industry for Sussex County; that agribusiness is one of the dominant forces for Sussex County's economy; that the subject Application will support agribusiness on a number of levels; that it will provide a location for farmers to sell grains and crops; that the Application will provide poultry growers with a source of feed for poultry farms and houses; that due to the proposed location within Sussex County, the location of the properties in relation to transportation and the properties location to similar uses within the area, the proposed use seems to make sense; that Rt. 13 forms the eastern boundary of the property; that E Newton Rd. (Rt. 404) forms the southern boundary of the property; that the property's western boundary had two neighbors, the Delmarva Central Railroad, and the DelDOT's Bridgeville Maintenance Yard; that the northern boundary contains a wooded area, which contains Polk Branch and the Grubby Neck Branch; that there are significant transportation features available to the site; that Rt. 13 and Rt. 404 are major highways within Sussex County, being classified as other arterials by DelDOT; that the Sussex County Zoning Code defines both roads as major arterials; that to the west of the property is another source of transportation being the railroad; that these are part of the reasons the properties were chosen for the potential location of a feed mill; that the site is located within Investment Level 2 along E Newton Road, moving in an Investment Level 3 area according to the State Strategies Map; that Level 2 areas are areas where the State anticipates growth in the near term future; that within the State Strategies it states that State investments and policies should support and encourage a wide range of uses within the Level 2 areas; that the State Strategies go on to state Level 2 areas are considered "priority areas" for job creation and retention; that the proposed location will allow for job creation and retention for the area; that according to Sussex County's Future Land Use Map the property is located within the Industrial Area; that properties to the west and some to the south are also located within and Industrial Area; that other surrounding properties are located within the Developing Area, which is another Sussex County growth area; that a nearby property was also the subject property for a Conditional Use in 2020; that on the east side of Rt.13 there are more properties located within the Developing Area; that the Zoning Map reflects the Future Land Use Map with a mixture of industrial and commercial zoning designation near the site along E. Newton Rd and Rt. 13; that in 2020, a Change of Zone application, being C/Z 1919 on behalf of Newton Farms was filed; that the application requested to change the zoning classification of 23.7 acres, from C-1 (General Commercial) to LI-2 (Light Industrial-2); that C/Z 1919 was approved by County Council; that the first eight acres of the rezoning request, is currently under construction, and will be the home of Miller Metal; that there are several Conditional Uses surrounding the area, which also reflect the commercial and industrial nature of the uses for the area; that the immediate

**Public
Hearing/
CZ2003
(continued)**

Conditional Uses to the west belongs to the DelDOT maintenance yard; that the immediate property to the north contains two Conditional Uses, being for warehouses and contractor flex space for Artic Air; that the Woodbridge High School is located northwest of the site; that Insight Homes, A.C. Shultes of Delaware, Inc. are located east of the site; that south of the property are multiple industrial uses, belonging to O.A. Newton, Lindenmere Store, Miller Metal, News Print Shop, Old Dominion Freight Line, a solar array and the Eastern Shore Natural Gas compressor station; that along the western side, on the other side of the railroad track, is Perdue's Feed Mill Granary, that the site meets the bulk area requirements with a minimum requirement of two acres and a minimum depth and width of 200-ft. in either direction; that water and sewer would be provided by onsite systems; that the majority of the property is not located within a flood plain; that a small portion of the property, along Polk Branch and Grubby Neck Branch, is located within Flood Zone A; that the site area located within Flood Zone A will have no impact or interference on the proposed use or development; that if any wetlands are present, they would be within the wooded areas along the branches; that any environmental features within the wooded area would not be impacted by the proposed development; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT's responses stated the traffic impact would be considered minor; that the definition of a minor impact states more than 50 vehicle trips are anticipated within a peak hour, with more than 500 vehicle trips per day, but less than 200 vehicle trips in any peak hour and less than 2,000 vehicle trips per day; that DelDOT also noted the proposed use would not require a Traffic Impact Study (TIS); that the project would be able to avail itself of paying the Area Wide Study fee; that the Zoning Code described the HI (Heavy Industrial) zoning to provide for a variety of industrial operations, to preserve the land within the district for industrial use, excluding new residential or commercial development, except for certain specified uses deemed appropriate uses in addition to industrial operations; that there is no residential development within the nearby areas of the site; that the surrounding uses are commercial and industrial; that the proposed use of the site is for a feed mill, which would produce 30,000 tons of feed per week; that feed mills do not require outdoor activities or storage of items; that the only industrial zoning district that specifically describes the permitted use for feed mills is the HI-1 (Heavy Industrial) Zoning District; that within the HI-1 Zoning District, feed mills are described as a potentially hazardous use; that due to this, the proposed use will require approval from County Council for the Change of Zone request, and will then be required to attend a public hearing before the Board of Adjustment for a potential hazardous use determination.

The Council found that Mr. Zach Evans, Mountaire Farms Community Relations Manager, spoke on behalf of the Application; that the proposed project is important not only for Mountaire Farms, but also for agriculture within the Sussex County community; that currently, Mountaire is celebrating the 100th Anniversary of the chicken industry on Delmarva, which was started in Sussex County; that in 1923, Ms. Cecile Steele from

Public
Hearing/
CZ2003
(continued)

Ocean View, Delaware began the industry; that this woman would typically order 50 chicks; that she received 500 chicks in error; that by the end of the year, Ms. Steele sold all 500 birds at 62 cents per pound in 1923, which equates to almost \$11.00 of buying power today; that Mountaire was founded in 1914 by Mr. Guy Cameron of Little Rock, Arkansas, who owned and started a family-owned feed company; that in 1968, current Chairman, Mr. Ronnie Cameron joined Mountaire; that Mr. Ronnie Cameron is the third generation of the Cameron family to own and operate Mountaire Farms; that Mountaire's current CEO, Mr. Kevin Garland is the fourth generation of the Cameron family to own and operate Mountaire Farms; that the fifth generation of the Cameron family recently married and moved to Sussex County; that Mountaire Farms is a family owned and operated business; that in 1977 Mountaire purchased their first poultry plant on Delmarva, in Selbyville, Delaware; that they have been expanding slowly and strategically since that time, acquiring the assets necessary to support the farmer who raise the birds; that in 1996, Mountaire expanded into North Carolina; that in 2000, Mountaire purchased the complex located in Millsboro; that in 2019, Mountaire built their fourth plant in Siler City, North Carolina; that they invested in granaries, hatcheries and feed mill resources to support their farmers; that currently Mountaire is a billion dollar plus business, with over 10,000 employees; that Mountaire currently does business in five states; that Mountaire support 5,000 jobs across Delmarva; that Mountaire has 581 growers on Delmarva; that Mountaire has more growers than any other integrator on Delmarva; that they have more family farms on the Delmarva Peninsula than any other integrates that are operating and doing business in Sussex County; that Mountaire strives to do well as a company, so the company can do well by its employees and communities; that Mountaire Cares has participated in programs such as Thanksgiving for Thousands; that they are gearing up for an Easter for Thousands; that it will provide 5,000 meal boxes for families; that they will work will 200 plus community volunteers to distribute 20,000 meals to help feed people for the Easter holiday; that Mountaire Cares delivers free chicken to 45 food pantries; that Mountaire Cares also participates in volunteer projects on Earth Day, Arbor Day and Christmas; that Mountaire has built playground for schools, which allows their employees the opportunity to give back to their community; that during the Covid-19 pandemic, Mountaire donated chickens to local healthcare workers, first responders and families that experienced food insecurity; that disaster response teams are sent when an event happens; that over 2022 fiscal year, Mountaire Cares supported over 500 organizations, donated 1,142,060 pounds of chicken, which equates to 2,855,150 servings of chicken, hosted over 25 events, provided 976 volunteer opportunities and provided 3,904 volunteer hours; that the proposed project is great for agriculture and the community at large.

The Council found that David Hutt spoke on behalf of the application; that a common question is why the need for 167 acres to be rezoned to HI-1; that Mr. Hutt presented the Council with a preliminary print of the site, reflecting the location of the feed mill plant and the area where the railroad

**Public
Hearing/
CZ2003
(continued)**

loop would be located; that the railroad loop is part of the reasons why the proposed amount of acreage is necessary for the facility; that Mountaire has a similar feed mill site within Scotland County, North Carolina, which was awarded 2022 Integrator Facility of the Year; that the proposed feed mill is similar to the Perdue Feed Mill located across from the site on E. Newton Road; that the proposed application complies with any number of chapters, goals, strategies and objectives stated in the Comprehensive Plan; that Chapter 4, for Future Land Use, reflects the Industrial Zoning District as an applicable zoning district for the site; that the Comprehensive Plan stated industrial lands are lands devoted to larger industrial uses, including heavy industry, light industry warehouse and flex space, and large, more intensive, stand-alone uses should also be directed to these areas; that within Chapter 4.4 states the future land use of Sussex County should be handled to promote farming, preserving agricultural land values and agrobusiness; that the proposed project achieves this in two ways; that the proposed use will create a place for local farmers to sell their grains, as well as create a source for growers to obtain feed for their bird; that within Goal 9.3 within the Comprehensive Plan states preservation and encouragement should be given to the expansion of the agricultural industry; that Strategy 9.3.1.2 is to promote and expand land use, zoning and conservation policies and incentives that keep agriculture economically viable in Sussex County; that Strategy 9.3.1.3 states the accomplishment of the goal will come from ensuring zoning regulations accommodate the agribusiness, forestry and similar uses in appropriate locations including businesses that promote new uses for agricultural products; that they believe the requested zoning is appropriate to achieve the economic development goal; that Goal 13.5 within the Mobility Chapter of the Comprehensive Plan states the goal is to facilitate freight movement throughout Sussex County; that Strategy 13.5.1.3 states exploration should be given to incentives for businesses to switch from truck to rail freight, which can reduce freight costs and road traffic congestion; that another strategy suggests to work with railroad partners, to aid in their strategic planning efforts, helping to identify potential rail customers; that one of the submitted letters of support was provided by the railroad company immediately to the west of the site; that a number of support letters were submitted for the Application, being from State Senators, State representatives, the Department of Agriculture, the Department of Education, the Farm Bureau, the Delmarva Chicken Association and many agricultural business partners, which support the Application's importance and the investment the project will bring to Sussex County and the support letter provided by the Delmarva Central Railroad Company summarized the Application best by stating, "The Delmarva Central Railroad Company heartedly backs this generational investment in the sustainable future of Bridgeville, Sussex County, the State of Delaware, and the entire Delmarva Peninsula."

Public comments were heard.

Ms. Karen Breeding spoke in favor of the application; that she is an Agricultural Science teacher for Woodbridge High School; that the

**Public
Hearing/
CZ2003
(continued)**

Woodbridge Agricultural Science Program looks forward to working with Mountaire in the Department of Education's Work Based Learning Program; that the site is located nearby Woodbridge High School, which is very convenient for Woodbridge students who may have transportation difficulties; that they look forward to partnering with them on service projects.

Senator Dave Wilson spoke in favor of the application; that he has personally watched 18 wheelers go north daily and return with an empty trailer; that in the early 1970s, little consideration was given to the rail; that now with diesel fuel price increases, rail is being considered again; that rezoning this land is allowing Mountaire to better utilize the already existing railway system; that it is rewarding to see a local company invest in the local economy; that he requested the Council give favorable consideration to the Application, allowing the proposed project to move forward and to further promote the chicken industry for Sussex County.

Mr. Nick Combaras spoke in favor of the application; that recently his organization partnered with Mountaire to trying to renovate the ballfield and concession stands in Selbyville; that Mountaire provided over \$80,000 of funding; that the work has been completed; that Mountaire provides community support; that he supports this application.

Mr. Richard Wilkins spoke in favor of the application; that he is a life-long resident of Sussex County; that the Mid-Atlantic Soybean Association represents approximately 9,000 soybean farmers in the Mid-Atlantic states, with approximately 1.4 million acres of soybeans; that Mid Atlantic Soybean Association is in full support of the rezoning request; that a University of Delaware Economic Analysis confirmed that every dollar of direct revenue, received by a Delaware farmer, creates an additional eight dollars, or more, of economic activity in our local community; that agriculture is the largest economic driver to Sussex County and the State of Delaware; that agriculture is the least expensive type of economic activity for government entities to provide services to; that our County and State have been blessed for centuries, by the inspiration of work ethic and dedication to community, which is exhibited by the agrarian lifestyle and traditional values of its farmers; that they contend it should be very desirable to ensure agriculture remain a viable pursuit for Sussex County residents; that the greater the ability of Sussex County's agricultural land, to provide for our families, educate our children, support our community institutions, provide for our retirements and senior care, without expecting or requiring support from the government, make our social fabric stronger; that due to this, it becomes less enticing to allow our agricultural land to be converted for other uses, which do require greater services to be provided by government entities; that he is a life-long farmer in Greenwood; that he asked for this change of zone be granted and requested that help be provided with the permitting process.

Mr. Rob Rider with O.A. Newton & Son Company. spoke in support of the

**Public
Hearing/
CZ2003
(continued)**

Application; that he represented the fourth-generation property owner for the land, the Newton Family; that his family started off in the poultry industry in 1916; that they have not been in the poultry business since 1970; that they agreed the proposal represented the Newton family values; that he supports the use.

The Public Hearing and public record were closed.

**M 162 23
Adopt
Ordinance
No. 2917/
CZ2003**

A Motion was made by Mrs. Green, seconded by Mr. Rieley to Adopt Ordinance No. 2917 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING INNORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

- 1. In the 2019 Sussex County Comprehensive Plan update, this property was identified as being within the Industrial Area according to the Plan’s Future Land Use Map. The properties to the west and south are designated as being within either an Industrial Area or the Developing Area. The properties to the east are designated as being within the Developing Area. The Industrial Area is a Growth Area and Table 4.5-2 titled “Zoning Districts Applicable to Future Land Use Categories” identifies HI-1 (Heavy Industrial District) as an applicable zoning district for the Industrial Area.**
- 2. The description of the Industrial Area within Chapter 4 of the Comprehensive Plan describes this Area as containing “lands devoted to concentrations of larger industrial uses including heavier industry, light industry, warehousing, and flex space. . . [l]arge, more intensive stand-alone industrial uses should also be directed to these areas.”**
- 3. This site is in on a property that has frontage along East Newton Road in close proximity to Route 13 and near a rail line. This is an appropriate location for HI-1 Zoning.**
- 4. The purpose of the HI-1 Heavy Industrial District is to “provide for a variety of industrial operations. . .to preserve the land in the district for industrial use and to exclude new residential or commercial development, except for certain specified uses deemed appropriate adjuncts to industrial operations.” The intended use of the property (feed mill) is consistent with these permitted uses.**
- 5. There are industrially and commercially zoned properties in the area and there are a variety of uses nearby, including a large grain operation, an agricultural supply business, and a new manufacturing company. The proposed HI-1 area is compatible with the surrounding zoning and uses.**
- 6. The nearby railroad is operated by the Delmarva Central Railroad Company, which connects to other rail service providers. The rezoning to HI-1 will promote additional economic opportunities for**

M 162 23

**Adopt
Ordinance
No. 2917/
CZ2003
(continued)**

rail service in Sussex County. It is also in furtherance of Goal 13.5 of the Comprehensive Plan to “[f]acilitate freight movement throughout Sussex County”.

- 7. It has been stated that the rezoning to HI-1 is needed to construct a feed mill on the property with rail access. This promotes the continued vitality of agricultural operations in Sussex County, which is a goal stated throughout Sussex County’s Comprehensive Plan. This rezoning is in furtherance of that goal.
- 8. This rezoning to HI-1 promotes transportation goals in the Sussex County Land Use Plan, which states in Section 13.2.2 that “The County’s goods movement (freight) network is an integral component of the transportation network as well as the economy.” However, “the main element of the freight network is the roadway system, which carries trucks (motor freight).” One means of reducing truck impacts is to shift more freight to rail, although opportunities to do that are limited. This site presents an opportunity to achieve this goal.
- 9. No parties appeared in direct opposition to the rezoning.
- 10. The proposed project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County and is consistent with the County’s goals of promoting agribusiness and, specifically, Goal 9.3 of the Economic Development Chapter of the Comprehensive Plan, which is to “[p]reserve and encourage the expansion of the agriculture industry, forestry industry, and other similar industries in the County.”
- 11. Any future development of the property will require site plan review by the Sussex County Planning & Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**M 163 23
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 4:08 p.m.

Motion Adopted: 4 Yeas, 1 Absent

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