

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 20, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 20, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 172 18
Amend
and
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to amend the agenda by deleting “Introduction of Proposed Zoning Ordinances”, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of March 13, 2018 were approved by consent.

**Public
Comments**

Public Comments

Paul Reiger commented on Board of Adjustment meetings.

Dan Kramer commented on the March 13, 2018 meeting minutes and the requirement in Delaware Code that Council members should vote “Yea” or “Nay”.

**Wastewater
Agreement**

Mr. Lawson presented a wastewater agreement for the Council’s consideration.

**M 173 18
Execute
Wastewater
Agreement**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 808, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Red Clover Walk, LLC for wastewater facilities to be constructed in Maritima (AKA Red Clover Walk, Cedar Grove & Coastal Cove) – Phase 1, located in the West Rehoboth

**M 173 18
(continued)**

Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Adminis-
trator's
Report**

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

1. Sussex County Council Comprehensive Land Use Plan Workshop

The next Sussex County Council Comprehensive Land Use Plan Workshop will be held on Wednesday, March 21st, at 9:30 a.m. in Council Chambers. A copy of the agenda is attached.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Silver Woods – Phase 2 and Lewes Crossing – Phase 7 received Substantial Completion effective March 9th and March 15th, respectively.

3. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Friday, March 30th, to observe the Good Friday holiday. In addition, Council will not meet on Tuesday, March 27th, or Tuesday, April 3rd. The next regularly scheduled Council meeting will be held on April 10th at 10:00 a.m.

4. Lester Shaffer – Chief Constable

The County would like to welcome and introduce Mr. Lester Shaffer as our new Chief Constable. Les worked for the Georgetown Police Department for 15 years and Laurel Police Department for six years. Additionally, he worked for the Milford and Dewey Beach police departments as a part-time police officer. Les brings over 22 years of experience in law enforcement and will be a great asset to the County's team. He lives in Georgetown with his wife, Jennifer, and their two children.

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

**Bid Results/
Maintenance
Proposals**

Hans Medlarz, County Engineer, reported that the Engineering Department requested proposals for a one (1) year site maintenance agreement, with the option to renew annually based on satisfactory performance, for up to five (5) years, for the Delaware Coastal Airport/Business Park and one lot within the Herring Creek Sanitary

**Bid Results/
Property
Site
Maintenance
Proposals
(continued)** **Sewer District. He noted that bidders could submit their bid for any or all of the bid items. Bid items 1-3 involved Delaware Coastal Airport/Business Park mowing activities; bid item 4 involved the lot clearing at the Business Park expansion; alternate bid item 1 involved sediment removal from the drainage ditches in the Business Park.**

Mr. Medlarz reported that the Engineering Department recommends the award of Base Bid 4 to Egolf Forest Harvesting, Inc. for their low bid of \$62,600.00, and Base Bid 5 and Alternate Bid 1 to Jakor Enterprises, LLC for their low bid amount of \$4,650.00 and \$180,000.00, respectively. These amounts reflect maintenance over a 5-year period. Partial funding for this contract has been approved in the Fiscal Year 2019 budget. Funding for subsequent years will be budgeted accordingly. Mr. Medlarz further reported that the Engineering Department recommends the rejection of Base Bids 1, 2 and 3 due to insufficient competition and authorization to re-advertise.

**M 174 18
Award
Bids/
Property
Site
Maintenance** **A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that the 2018 Sussex County Delaware Coastal Airport/Business Park & Property Site Maintenance RFP, to reject Bids 1, 2 and 3 and award Base Bid 4 to Egolf Forest Harvesting, Inc. for the low bid of \$62,600.00, Base Bid 5 to Jakor Enterprises, LLC for the low bid of \$4,650.00, and Alternate Bid 1 to Jakor Enterprises, LLC for the low bid of \$180,000.00.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Absent;
Mr. Vincent, Yea**

**Proposed
Amendment
to Agree-
ment for
Wastewater
Services/
Lewes
BPW** **Hans Medlarz, County Engineer, reported that the Lewes Board of Public Works (BPW) has requested an amendment to the Agreement for wastewater treatment and disposal. The BPW has received two requests on Old Orchard Road to serve two parcels which are located in the service territory of the BPW. Mr. Medlarz noted, however, that the two parcels can connect to the County's system by gravity which is the better option; therefore, the Agreement was looked at for a possible reciprocal flow. In summary, the Amendment would allow wastewater to be transmitted and treated by the most cost-effective manner with the billing to be accomplished on a net zero metering basis. The Sussex County Engineering Department recommends the approval of Amendment No. 1. The BPW will consider the Amendment at their meeting on March 21, 2018.**

**M 175 18
Amend
Agreement/
Lewes BPW** **A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the amended Agreement for wastewater services with the Lewes Board of Public Works, as presented.**

**M 175 18
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

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

**M 176 18
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Arlett's Councilmanic Grant Accounts) to the Lord Baltimore Elementary School for expenses associated with the Robotics Club's competition in the World Championship.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 177 18
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$500.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Elementary School for expenses associated with the Robotics Club's competition in the World Championship.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 178 18
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Lutheran Church of Our Savior for the English as a Second Language Program.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 179 18
County-
wide
Youth
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 from Countywide Youth Grants to Delaware Ducks Unlimited for the Greenwing Conservation Festival.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Council Members' Comments	<u>Council Members' Comments</u> Mr. Arlett commented on issues relating to the Board of Adjustment.
Public Hearings	Public Hearings were held on nine (9) separate proposed ordinance amendments. Janelle Cornwell, Planning and Zoning Director, Vince Robertson, Assistant County Attorney, and Jamie Sharp, Assistant County Attorney, were in attendance to present the proposed ordinance amendments.
Public Hearing/ Proposed Ordinance/ Small Lot Setback Ordinance	<p>A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-182 AND §115-183, AND TABLE 1 RELATING TO FRONT, SIDE AND REAR YARD SETBACKS IN SMALL, LEGALLY NONCONFORMING LOTS"</p> <p>The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended approval with the following amendments:</p> <p>§115-182E – In the first line, replace "pre-existing, legally nonconforming lot" with <i>"existing approved lot"</i>.</p> <p>§115-182E – Add a sentence at the end that states <i>"Provided, however, that no front yard setback shall be less than five feet."</i></p> <p>§115-183D – In the first line, replace "pre-existing, legally nonconforming lot" with <i>"existing approved lot"</i>.</p> <p>§115-183D – Change "less than 50 feet of frontage" to <i>"fifty feet or less of frontage"</i> in the second line.</p> <p>§115-183D – Add a new sentence at the end. <i>"For any lot with side or rear setbacks reduced by operation of this Section 115-183D, no structures shall extend or project closer than five feet to the lot line."</i></p> <p>TABLE 1. Revise Note (16) to state: <i>"For any existing approved lot that is less than 10,000 square feet or that has fifty feet or less of frontage, the side yard setbacks shall be reduced to five feet. The front and rear yard setback shall be reduced by five feet. For any lot with side or rear setbacks reduced by operation of this Section 115-183D, no structures shall extend or project closer than five feet to the lot line."</i></p> <p>Mr. Sharp and Ms. Cornwell presented the Proposed Ordinance.</p> <p>Public comments were heard.</p>

**Public
Hearing/
Proposed
Ordinance/
Small Lot
Setback
Ordinance
(continued)**

Paul Reiger questioned if variances will be allowed in the setback area and questioned if there is a way to not allow variances in the setback area for new construction.

Ms. Cornwell noted that additional edits are being recommended and she read the complete list of proposed amendments, as follows:

Delete Section 115-182E.

§115-182C – Strike “new or relocated” from the second line and the fourth line.

§115-182C – Add the following sentence at the end. *“No front yard setback shall be reduced pursuant to this subsection shall be reduced to less than 5 feet. The provision of this subsection shall not apply to any lot in a cluster subdivision, ESDDOZ or Residential Planned Community.”*

§115-183D – In the first line, replace “pre-existing, legally nonconforming lot” with “existing approved lot”.

§115-183D – Remove “or that has less than 50 feet of frontage”.

§115-183D – Add a new sentence at the end. *“For any lot with side or rear setbacks reduced by operation of this Section 115-183D, no structures shall extend or project closer than five feet from the lot line.”*

§115-183D – Add a sentence at the end. *“The provision of this subsection shall not apply to any lot in a cluster subdivision, ESDDOZ or Residential Planned Community.”*

TABLE 1. Revise Note (16): *“For any existing approved lot which is not located in a cluster subdivision, ESDDOZ or Residential Planned Community, and consists of less than 10,000 square feet, the following setbacks shall apply: the side yard setback shall be reduced to 5 feet, the rear yard setback shall be reduced by 5 feet. For any lot with side or rear yard setbacks reduced by operation of Section 115-183D, no structures shall extend or project closer than five feet from the lot line. The front yard setback may be reduced to the average front yard setback of the existing buildings located on the same side of the street or road and being within 300 feet of the structure, provided however, the front yard setback is not less than 5 feet. Any vacant lot within 300 feet of the structure shall be calculated as having the required setback for the district.”*

In light of the many proposed changes, Mr. Moore called for any additional public comments.

Dan Kramer raised a question about the overhang of window air conditioning units.

**Public
Hearing/
Proposed
Ordinance/
Small Lot
Setback
Ordinance
(continued)**

Ring Lardner of Davis Bowen & Friedel spoke in support of the Proposed Ordinance but questioned if this variance applies to lots within the ESDDOZ.

There were no additional public comments.

Ms. Cornwell responded to questions raised during public comments.

The Public Hearing and public record were closed.

**M 180 18
Adopt
Ordinance
No. 2557/
Small Lot
Setback
Ordinance**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2557 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-182 AND §115-183, AND TABLE 1 RELATING TO FRONT, SIDE AND REAR YARD SETBACKS IN SMALL, LEGALLY NONCONFORMING LOTS”, with the following amendments:

Delete Section 115-182E.

§115-182C – Strike “new or relocated” from the second line and the fourth line.

§115-182C – Add the following sentence at the end. *“No front yard setback shall be reduced pursuant to this subsection shall be reduced to less than 5 feet. The provision of this subsection shall not apply to any lot in a cluster subdivision, ESDDOZ or Residential Planned Community.”*

§115-183D – In the first line, replace “pre-existing, legally nonconforming lot” with *“existing approved lot”*.

§115-183D – Remove “or that has less than 50 feet of frontage”.

§115-183D – Add a new sentence at the end. *“For any lot with side or rear setbacks reduced by operation of this Section 115-183D, no structures shall extend or project closer than five feet from the lot line.”*

§115-183D – Add a sentence at the end. *“The provision of this subsection shall not apply to any lot in a cluster subdivision, ESDDOZ or Residential Planned Community.”*

TABLE 1. Revise Note (16): *“For any existing approved lot which is not located in a cluster subdivision, ESDDOZ or Residential Planned Community, and consists of less than 10,000 square feet, the following setbacks shall apply: the side yard setback shall be reduced to 5 feet, the rear yard setback shall be reduced by 5 feet. For any lot with side or rear yard setbacks reduced by operation of Section 115-183D, no structures shall extend or project closer than five feet from the lot line. The front yard setback may be reduced to the average front yard setback of the existing buildings located on the same side of the street or road and being within 300 feet of the structure, provided however,*

**M 180 18
Adopt
Ordinance
No. 2557/
Small Lot
Setback
Ordinance
(continued)**

the front yard setback is not less than 5 feet. Any vacant lot within 300 feet of the structure shall be calculated as having the required setback for the district.”

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Condition
Amend-
ments
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-222 RELATING TO AMENDMENTS OF PRIOR APPROVALS”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended denial.

Public comments were heard.

Maria Payan and Paul Reiger spoke in support of the Proposed Ordinance.

David Hutt, Attorney, stated that he agrees with the Planning and Zoning Commission’s recommendation to deny the Proposed Ordinance as it will create a burden for applicants, i.e. additional expense and an approximate wait time of 6 months for a public hearing to be scheduled. Mr. Hutt suggested an amendment to 115-222 D changing the word “appreciable” to “substantially different”. Mr. Hutt stated that he has alternate language he can propose for the Council’s consideration (document submitted).

There were no additional public comments.

The Public Hearing and public record were closed.

Council discussed amendments to the Proposed Ordinance to change the application fee and to permit an application to be expedited. Mr. Robertson stated that those issues are separate from the Proposed Ordinance and can be addressed in a separate ordinance.

**M 181 18
Adopt
Proposed
Ordinance**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-222 RELATING TO AMENDMENTS OF PRIOR APPROVALS”.

**Suggested
Amend-
ments**

Mr. Arlett questioned if Council wants to consider Mr. Hutt’s suggested amendment to the Proposed Ordinance to amend §115-222 D to change the word “appreciable” to “substantially different”. Mr. Robertson stated that

(continued) he agrees with Mr. Hutt's position that "substantially" is more of a defined legal term than "appreciable".

Motions

Withdrawn Mr. Cole and Mr. Arlett withdrew their Motions.

M 182 18 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Section
Amendment 115-222, Subsection [E.] D. to read as follows: "Has no *substantially different* effect on adjoining or surrounding property."

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

M 183 18 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt
Adopt Ordinance No. 2558 entitled "AN ORDINANCE TO AMEND CHAPTER
Ordinance 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE
No. 2558/ XXVIII, §115-222 RELATING TO AMENDMENTS OF PRIOR
Condition APPROVALS", as amended (in Motion M 182 18).
Amend-

ments
Ordinance

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Public
Hearing/
Adminis-
trative
Variances
Ordinance

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY" (Administrative Variances).

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended approval with the following amendments:

§115-181, Subsection 7, Line 1. Remove the words "In addition to" and replace with "Notwithstanding".

Change the references to "Director" to "*Director or Director's designee*".

There were no public comments.

The Public Hearing and public record were closed.

M 184 18 A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt
Adopt Ordinance No. 2559 entitled "AN ORDINANCE TO AMEND CHAPTER
Ordinance 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE
No. 2559 XXV, §115-181 RELATING TO YARDS AND OPEN SPACES

**M 184 18
Adopt
Ordinance
No. 2559/
Adminis-
trative
Variances
Ordinance
(continued)**

GENERALLY”, with the following amendments:

§115-181, Subsection 7, Line 1. Remove the words “In addition to” and replace with “Notwithstanding”.

Change the references to “Director” to “*Director or Director’s designee*”.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Outside
Wall
Dimensions
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-188 RELATING TO TOWNHOUSE AND MULTIFAMILY DWELLING OUTSIDE WALL DIMENSIONS”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended approval with the following amendments:

§115-188 D (6) – “Unless otherwise restricted by district regulations, not more than eight dwelling units shall be included in any one townhouse building, and the outside wall dimensions of the townhouse building shall not exceed 170 feet in width measured linearly from the outer edge of the townhouse building end units.”

§115-188 E (1) – Amend last sentence to read ... “Mixed use buildings that contain nonresidential uses shall not be subject to the outside wall dimension requirement.”

Public comments were heard.

Ring Lardner of Davis Bowen & Friedel spoke in support of the Proposed Ordinance.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 185 18
Adopt
Ordinance
No. 2560**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2560 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-188 RELATING TO TOWNHOUSE AND MULTIFAMILY DWELLING OUTSIDE WALL DIMENSIONS”, with the following amendments:

M 185 18
Adopt
Ordinance
No. 2560/
Outside
Wall
Dimensions
Ordinance
(continued)

§115-188 D (6) to read as follows: “Unless otherwise restricted by district regulations, not more than eight dwelling units shall be included in any one townhouse building, and the outside wall dimensions of the townhouse building shall not exceed 170 feet in width measured linearly from the outer edge of the townhouse building end units.”

§115-188 E (1). Amend last sentence to read ... “Mixed use buildings that contain nonresidential uses shall not be subject to the outside wall dimension requirement.”

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Public
Hearing/
Proposed
Ordinance/
Inter-
Connectivity

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-220 AND §115-221 RELATING INTERCONNECTIVITY REQUIRED FOR CERTAIN USES”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended approval with the following amendments:

Where the word “section” appears, replace it with the “§”.

Wherever A (5) and A (6) are referenced, replace them with 115-220 or 115-221 where appropriate.

Public comments were heard.

Dan Kramer commented on the County telling a landowner that they have to provide interconnectivity and stated that the County should pay for the land (right-of-way) if interconnectivity is required.

There were no additional public comments.

The Public Hearing and public record were closed.

M 186 18
Adopt
Ordinance
No. 2561/
Inter-
Connectivity
Ordinance

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2561 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-220 AND §115-221 RELATING INTERCONNECTIVITY REQUIRED FOR CERTAIN USES”, with the following amendments:

Where the word “section” appears, replace it with the “§”.

M 186 18 **Wherever A (5) and A (6) are referenced, replace them with 115-220 or 115-221 where appropriate.**
(continued)

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX**
Proposed **COUNTY BY AMENDING ARTICLE XXV, §115-183 RELATING TO**
Ordinance/ **DECKS, PORCHES PLATFORMS OR STEPS IN SIDE AND REAR**
Deck, **YARDS”.**

Patio
Setbacks **The Planning and Zoning Commission held a Public Hearing on the**
 Proposed Ordinance on February 22, 2018 at which time the Commission
 recommended approval.

There were no public comments.

The Public Hearing and public record were closed.

M 187 18 **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt**
Adopt **Ordinance No. 2562 entitled “AN ORDINANCE TO AMEND CHAPTER**
Ordinance **115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE**
No. 2562/ **XXV, §115-183 RELATING TO DECKS, PORCHES PLATFORMS OR**
Deck, Patio **STEPS IN SIDE AND REAR YARDS”.**

Setback
Ordinance **Motion Adopted: 5 Yeas.**

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX**
Year **COUNTY BY AMENDING ARTICLE XXVII, §115-213 RELATING**
Validity **LAPSES OF SPECIAL EXCEPTIONS AND VARIANCES”.**

Ordinance
The Planning and Zoning Commission held a Public Hearing on the
Proposed Ordinance on February 22, 2018 at which time the Commission
recommended approval with the following amendments:

§115-213. In the fourth line after the word “granted”, add a “.” Delete the
remainder of the sentence and replace with “The Board of Adjustment may
extend the expiration date of the special use exception or variance for a period
not to exceed one year upon a showing of good cause; provided however, that
the extension request is submitted prior to the expiration of the existing

Public
Hearing/
Year
Validity
Ordinance
(continued)

approval.” Add a sentence after that to read “If a decision of the Board is appealed, the two years shall not begin until the decision on appeal becomes final.”

Mr. Robertson reported that David Hutt, Attorney, had a recommendation to amend the Proposed Ordinance and that he and Ms. Cornwell agree with the recommendation, which is to add the following sentence: *“If a decision of the Board is appealed, the two years shall not begin until the decision on appeal becomes final.”* Mr. Robertson stated that this mirrors the County’s standard practice on appeals.

Public comments were heard.

David Hutt, Attorney, spoke in support of the Proposed Ordinance and his recommended amendment. He also commented that the ordinance amendment should extend backwards to include those applications that would not have expired if they had the two year time period (versus the one year time period).

Ms. Cornwell stated that this ordinance amendment could apply to current applications as long as they have not expired.

Mr. Sharp stated that if an application has expired, it should remain expired. He noted, however, it can apply to active applications.

Maria Payan spoke in opposition to including any applications that have already expired.

There were no additional public comments.

The Public Hearing and public record were closed.

M 188 18
Adopt
Ordinance
No. 2563/
Year
Validity
Ordinance

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2563 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVII, §115-213 RELATING LAPSES OF SPECIAL EXCEPTIONS AND VARIANCES”, with the following amendments:

§115-213. In the fourth line after the word “granted”, add a “.” Delete the remainder of the sentence and replace with *“The Board of Adjustment may extend the expiration date of the special use exception or variance for a period not to exceed one year upon a showing of good cause; provided however, that the extension request is submitted prior to the expiration of the existing approval.”* Add a sentence after that to read *“If a decision of the Board is appealed, the two years shall not begin until the decision on appeal becomes final.”*

Motion Adopted: 5 Yeas.

**M 188 18
(continued)**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Off-Street
Loading**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXIII, §115-168 RELATING TO MODIFICATION OF OFF-STREET LOADING REQUIREMENTS”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission recommended approval.

There were no public comments.

The Public Hearing and public record were closed.

**M 189 18
Adopt
Ordinance
No. 2564/
Off-Street
Loading
Ordinance**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2564 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXIII, §115-168 RELATING TO MODIFICATION OF OFF-STREET LOADING REQUIREMENTS”.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Handicap
Ramps**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY” (HANDICAP RAMPS).

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 22, 2018 at which time the Commission deferred action. Ms. Cornwell noted that there was discussion by the Commission and it was determined some edits are needed.

Mr. Robertson stated that the Proposed Ordinance was to bring over what is currently in the Code from manufactured home parks to other residential subdivisions; staff realized there probably could be some fixes to the manufactured home parks section of the Code, which wasn’t introduced; and there is an additional layer, i.e. Community Development staff is involved in handicap ramps. Mr. Robertson stated that they want to take a closer look at the Proposed Ordinance.

Public comments were heard.

Public Hearing/ Proposed Ordinance/ Handicap Ramps (continued) **Dan Kramer questioned why someone should pay a permit fee to construct something that is only temporary.**

Paul Reiger commented on the approval of structures, i.e. handicap ramps and fences.

There were no additional public comments.

The Public Hearing and public record were closed.

M 190 18 **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on**
Defer **the Proposed Ordinance entitled “AN ORDINANCE TO AMEND**
Action on **CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING**
Proposed **ARTICLE XXV, §115-181 RELATING TO YARDS AND OPEN SPACES**
Ordinance/ **GENERALLY” (HANDICAP RAMPS).**
Handicap
Ramps **Motion Adopted: 5 Yeas.**

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea

Mr. Robertson stated that, once the Proposed Ordinance is reviewed and amended, it will be determined if a new public hearing is necessary.

Old **Under Old Business, the Council considered Change of Zone No. 1832 and**
Business/ **Conditional Use No. 2106 filed on behalf of MDI Investment Group, LLC.**
CU 2106

The Planning and Zoning Commission held a Public Hearing on both applications on November 16, 2017 at which time action was deferred. On December 14, 2017, the Commission recommended approval of both applications; Conditional Use No. 2106 was recommended for approval with the following conditions:

- A. The maximum number of residential units shall be 52.**
- B. All entrances, intersection, roadway, and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior street design shall meet or exceed the Sussex County street design requirements.**
- F. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7am to 6pm Monday through Saturday.**

**Old
Business/
CU 2106
(continued)**

- G. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
- H. The Applicant shall form a condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.**
- I. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- J. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Applicant shall coordinate with the local school district to establish a school bus stop area, which shall be shown on the Final Site Plan, if required by the District.**
- L. As stated by the Applicant, there shall be a shared entrance and interconnectivity with the adjacent Wellness Center property.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated November 16 and December 14, 2017.)

The County Council held a Public Hearing on these applications on December 5, 2017 at which time action was deferred.

**M 191 18
Adopt
Ordinance
No. 2565/
CZ 1832**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to Adopt Ordinance No. 2565 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS" (Change of Zone No. 1832) filed on behalf of MDI Investment Group, LLC

Motion Adopted: 4 Yeas, 1 Nay.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Nay;
Mr. Vincent, Yea**

**M 192 18
Approve
Proposed
Ordinance

Motion
Withdrawn**

A Motion was made by Mr. Arlett to approve Conditional Use No. 2106.

Mr. Burton stated that he would like to suggest some changes to the conditions recommended by the Planning and Zoning Commission.

Mr. Arlett withdrew his Motion.

**M 193 18
Amend
Recom-
mended
Conditions
for CU 2106**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to amend the Planning and Zoning Commission's Reason No. 1 and Condition No. 8 A, as follows:

- 1. This application seeks the approval of 41 (replacing 52) single family duplex-type structures on 6.86 acres, for a density of approximately 6 (replacing 7.58) units per acre. By comparison, the density on the adjacent Arbors of Cottagedale MR multifamily development is 9.29 units per acre.**

8.A The maximum number of residential units shall be 41 (replacing 52).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 194 18
Adopt
Ordinance
No. 2566/
CU 2106**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to Adopt Ordinance No. 2566 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS" (Conditional Use No. 2106) filed on behalf of MDI Investment Group, LLC, with the following conditions:

- A. The maximum number of residential units shall be 41.**
- B. All entrances, intersection, roadway, and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior street design shall meet or exceed the Sussex County street design requirements.**
- F. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7am to 6pm Monday through Saturday.**
- G. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- H. The Applicant shall form a condominium association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.**

**M 194 18
Adopt
Ordinance
No. 2566/
CU 2106
(continued)**

- I. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- J. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Applicant shall coordinate with the local school district to establish a school bus stop area, which shall be shown on the Final Site Plan, if required by the District.**
- L. As stated by the Applicant, there shall be a shared entrance and interconnectivity with the adjacent Wellness Center property.**
- M. 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 Nay.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Nay;
Mr. Vincent, Yea**

**Old
Business/
CU 2111**

Under Old Business, the Council considered Conditional Use No. 2111 filed on behalf of Michael Moutzalias.

The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2018 at which time action was deferred. The Commission deferred action on this application again on January 25, 2018. On February 8, 2018, the Commission recommended denial.

(See the minutes of the Planning and Zoning Commission dated January 11, January 25, and February 8, 2018.)

The County Council held a Public Hearing on this application on February 6, 2018 at which time action was deferred.

**M 195 18
Adopt
Proposed
Ordinance

DENIED**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RV/PARK MODEL/TRAILER REPAIR AND REFURBISHMENT BUSINESS WITH OUTDOOR STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS, OF A 32.16-ACRE PARCEL OF LAND” (Conditional Use No. 2111) filed on behalf of Michael Moutzalias,

Motion Denied: 4 Nays, 1 Yea.

**M 195 18
(continued)**

**Vote by Roll Call: Mr. Arlett, Nay; Mr. Burton, Nay;
Mr. Wilson, Yea; Mr. Cole, Nay;
Mr. Vincent, Nay**

**Old
Business/
CU 2112**

Under Old Business, the Council considered Conditional Use No. 2112 filed on behalf of Mitchell Family Limited Partnership.

The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2018 at which time action was deferred. The Commission deferred action on this application again on January 25, 2018. On February 8, 2018, the Commission recommended approval, with the following conditions:

- A. As stated by the Applicant, there shall be no more than 39,000 square feet of medical and professional office space.**
- B. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 4:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- C. One lighted sign, not to exceed 50 square feet, shall be permitted on the building. In addition, the Applicant may install one additional lighted ground sign that does not exceed 32 square feet in size per side.**
- D. The medical office building shall be set back a minimum of 60 feet from the property line adjacent to King's Highway with parking allowed beyond the building setback of 40 feet.**
- E. All entrance, intersection and roadway improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.**
- F. The preferred entrance to the entire site is further east of Gill's Neck Road. The Applicant shall report on the status of this issue at the time of Final Site Plan approval and note the results of the consultations with DelDOT on the Final Site Plan. The current entrance shall be a temporary one only and shall be closed when the balance of the property is developed.**
- G. There shall be vehicle interconnectivity between this site and the surrounding properties when they are developed. These areas of interconnectivity shall be shown on the Final Site Plan.**
- H. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- I. The site shall be served by central water and central sewer.**
- J. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 196 18
Amend
Recom-
mended
Condition/
CU 2112**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to amend Condition No. C recommended by the Planning and Zoning Commission to read as follows:

One non-illuminated sign, not to exceed 50 square feet, shall be permitted on the building; however, there shall be no signs on the building on the sides that face Kings Highway and Gills Neck Road. In addition, the Applicant may install a total of two (2) non-illuminated ground signs that do not exceed 32 square feet in size per side.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 197 18
Amend
Recom-
mended
Condition/
CU 2112**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to amend Condition No. D recommended by the Planning and Zoning Commission to read as follows:

The medical office building shall be set back a minimum of 60 feet from the property line adjacent to King's Highway with parking allowed beyond the building setback of 40 feet. The setbacks and right-of-way shall be compatible with DelDOT and the Lewes Historic Byways CMP.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 198 18
Adopt
Ordinance
No. 2567/
CU 2112**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2567 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL OFFICE AND ANCILLARY MEDICAL USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.30 ACRES, MORE OR LESS" (Conditional Use No. 2112) filed on behalf of Mitchell Family Limited Partnership, with the following conditions:

- A. As stated by the Applicant, there shall be no more than 39,000 square feet of medical and professional office space.**
- B. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 4:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- C. One non-illuminated sign, not to exceed 50 square feet, shall be permitted on the building; however, there shall be no signs on the building on the sides that face Kings Highway and Gills Neck Road. In**

**M 198 18
Adopt
Ordinance
No. 2567/
CU 2112
(continued)**

- addition, the Applicant may install a total of two (2) non-illuminated ground signs that do not exceed 32 square feet in size per side.
- D. The medical office building shall be set back a minimum of 60 feet from the property line adjacent to King's Highway with parking allowed beyond the building setback of 40 feet. The setbacks and right-of-way shall be compatible with DelDOT and the Lewes Historic Byways CMP.**
 - E. All entrance, intersection and roadway improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.**
 - F. The preferred entrance to the entire site is further east of Gill's Neck Road. The Applicant shall report on the status of this issue at the time of Final Site Plan approval and note the results of the consultations with DelDOT on the Final Site Plan. The current entrance shall be a temporary one only and shall be closed when the balance of the property is developed.**
 - G. There shall be vehicle interconnectivity between this site and the surrounding properties when they are developed. These areas of interconnectivity shall be shown on the Final Site Plan.**
 - H. Any dumpsters shall be screened from view of neighboring properties and roadways.**
 - I. The site shall be served by central water and central sewer.**
 - J. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Old
Business/
CZ 1834**

Under Old Business, the Council considered the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.98 ACRES, MORE OR LESS" (Change of Zone No. 1834) filed on behalf of Colonial East, L.P.

The Planning and Zoning Commission held a Public Hearing on this application on November 16, 2017, at which time the Commission recommended approval.

- Old Business/
CZ 1834
(continued)** (See the minutes of the Planning and Zoning Commission dated November 16, 2017.)
- The Sussex County Council held a Public Hearing on this application on December 12, 2017 at which time the Council deferred action for the receipt of the Traffic Impact Study (TIS) only. It was noted that the TIS was received on February 21, 2018; that a report was given to Council; and that no written comments have been received since the receipt of the TIS.
- Mr. Burton noted that he was not present during the Public Hearing; however, he has listened to the audio for the Public Hearing.
- M 199 18
Adopt
Ordinance
No. 2568/
CZ 1834** A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2568 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.98 ACRES, MORE OR LESS" filed on behalf of Colonial East, L.P. (Change of Zone No. 1834)
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- M 200 18
Go Into
Executive
Session** At 12:35 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Executive
Session** At 12:38 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 1:45 p.m.
- M 201 18
Reconvene
Regular
Session** At 1:47 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.
- Motion Adopted:** 3 Yeas, 2 Absent.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Absent; Mr. Cole, Absent;
Mr. Vincent, Yea

E/S Action **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to authorize the County Administrator to negotiate, enter into a contract, and settle on Parcel #2018-A.**

M 202 18
Authorize
Land
Acquisition

Motion Adopted: 3 Yeas, 2 Absent.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Absent; Mr. Cole, Absent;
Mr. Vincent, Yea

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

Mr. Wilson and Mr. Cole joined the meeting.

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2116 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR**
PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH
HUNDRED, SUSSEX COUNTY, CONTAINING 0.641 ACRES, MORE
OR LESS” (Conditional Use No. 2116) filed on behalf of William and
Stacey Smith (Tax I.D. No. 335-8.18-2.00) (911 Address: 1501 Savannah
Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on February 22, 2018 at which time action was deferred. On March 8, 2018, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated February 22 and March 8, 2018.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

William Smith was present on behalf of his application and discussed his purchase of the property, the condition of the property, renovations and layout of the property, the history of the property, and his intent for the property as medical offices with a waiting area. Mr. Smith also discussed ingress to and egress from the site, and parking.

There were no public comments.

The Public Hearing and public record were closed.

M 203 18 **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to Adopt**
Adopt **Ordinance No. 2569 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 2569/ **RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE**
CU 2116 **LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**
LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,

**M 203 18
Adopt
Ordinance
No. 2569/
CU 2116
(continued)**

CONTAINING 0.641 ACRES, MORE OR LESS” (Conditional Use No. 2116) filed on behalf of William and Stacey Smith, with the following conditions:

- A. As stated by the Applicant, the use shall occur within the existing dwelling that shall be converted to office use.**
- B. As stated by the Applicant, the hours of operation shall be between 8:00 a.m. and 8:00 p.m. Monday through Saturday. There shall not be any Sunday hours.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. Any dumpster shall be screened from view of neighboring properties and roadways.**
- E. There shall be a buffer along the boundary of this property and the residential property to the rear of it using Leyland Cypress or similar vegetation. The plantings must be at least 5 feet tall at the time of construction. The design of the buffer and the vegetation used in the buffer area shall be included in the Final Site Plan.**
- F. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements. In addition, and subject to DelDOT’s approval, the access to the property via Dove Drive shall only be used to exit the property.**
- G. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- H. With the exception of required handicapped spaces, all parking shall be located in the rear of the property behind the office.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2118**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS” (Conditional Use No. 2118) filed on behalf of John W. Davidson (Tax I.D. No. 234-10.00-70.16) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on March 8, 2018 at which time the Commission recommended approval for the following reasons:

**Public
Hearing/
CU 2118
(continued)**

- 1. The application is identical to Ordinance No. 2340 for Conditional Use No. 1978. The Conditional Use lapsed while the Applicant was seeking his agency approvals.**
- 2. The Applicant has stated that he is willing to abide by all of the conditions imposed as part of Ordinance No. 2340.**
- 3. The proposed use is still consistent with nearby uses, which include other businesses, offices and contractors.**
- 4. The findings of fact contained in Ordinance No. 2340 support this current recommendation of approval.**
- 5. No parties appeared in opposition to this application.**
- 6. This recommendation is subject to all of the conditions imposed upon Ordinance No. 2340, and those conditions are incorporated into this recommendation in their entirety.**

(See the minutes of the Planning and Zoning Commission dated March 8, 2018.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

Ms. Cornwell reported that one letter in opposition to the application has been received.

John Davidson was present on behalf of his application and reported on the issues he has had with seeking agency approvals after receiving Conditional Use approval (Conditional Use No. 1978), which eventually resulted in the lapse of the Conditional Use. He stated that, initially, the permits required made the project not viable and then, later, he decided to proceed. Mr. Davidson reported that he now has received approval from the Sussex Conservation District, and that he has submitted to DelDOT; however, he needs an approved Conditional Use to apply to DelDOT. He stated that he is asking for the same thing – a professional office with contractor storage.

It was noted that the original Ordinance No. 2340 (Conditional Use No. 1978) expired in September 2017 and that he received a six-month extension.

There were no public comments.

The Public Hearing and public record were closed.

**M 204 18
Adopt
Ordinance
No. 2570/
CU 2118**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2570 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS” (Conditional Use No. 2118) filed on behalf of John W. Davidson, with the following conditions (same as Ordinance No. 2340):

**M 204 18
Adopt
Ordinance
No. 2570/
CU 2118
(continued)**

- A. The use shall be limited to professional offices and contracting, including the Applicants' masonry, dumpster rental, and house moving business.**
- B. Although permitted for use as the Applicant's house moving business, the site shall not become a sales facility for used or relocated houses, mobile homes or manufactured homes.**
- C. All security lighting shall be screened from view so that it does not shine on neighboring properties or roadways.**
- D. No junked or unregistered vehicles, trailers or similar equipment shall be stored on the site.**
- E. The Final Site Plan shall depict all areas used for outside storage, including:**
 - a) Vehicles, trailers and similar equipment storage and parking.**
 - b) Storage of house moving materials such as beams, axles, dunnage, jacks, etc.**
 - c) Materials associated with the masonry business;**
 - d) Construction dumpsters**
 - e) Structures temporarily moved to the site while in transit between locations.**
 - f) Any other outside storage associated with the Applicant's business.**
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for all required storm water management governed by that office.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- H. The project shall be subject to all DelDOT requirements regarding entrances and roadway improvements.**
- I. The hours of operation on this site shall be from 6:00 a.m. until 6:00 p.m.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CZ 1846**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL

**Public
Hearing/
CZ 1846
(continued)**

DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.379 ACRES, MORE OR LESS” (Change of Zone No. 1846) filed on behalf of CMF Bayside, LLC (Tax I.D. No. 533-19.00-297.00) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on February 22, 2018 at which time action was deferred. On March 8, 2018, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated February 22 and March 8, 2018.

Tim Willard, Attorney, was present on behalf of the Applicant with Rich Rishel of CMF Bayside, LLC; Ed Launay with Environmental Resources; and Steve Marsh and Lawton Myrick of George Miles & Buhr.

They discussed the proposed use of the property as an extension to the Americana Bayside development; the background of the Americana Bayside and Freeman business; the original Americana Bayside application; the layout of the site; delineated wetlands; water and sewer availability; the location of the site in the Environmentally Sensitive Developing District; stormwater management; Traffic Impact Study and DelDOT requirements; buffers; access to amenities; ponds; and the bald eagle established protection area.

They stated that this site will add 74.25 acres into the RPC; that 122 townhouse units in 22 buildings are proposed, but would count towards the original 1,700 lots approved as part of the original RPC (a master plan community); that 60 percent of the site is wetlands; that this application will be subject to the conditions for the original RPC; and that this community will be consistent with the other communities in American Bayside.

Public comments were heard.

There were no public comments in support of the application.

Tom Reilly spoke in opposition to the application, and referenced the Investment Level 4 Area, the mature forest, tall buildings, the bald eagle, the need for new infrastructure, drainage problems, DNREC comments, soil analysis, and traffic problems and transportation issues.

Mr. Riley read a letter of opposition into the record from Dave Bishop, an area resident, and part of a letter from David Small, DNREC Secretary.

There were no additional public comments.

The Public Hearing was closed.

(continued) The Council discussed the application.

M 205 18
Defer
Action on
CZ 1846

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1846 filed on behalf of CMF Bayside, LLC and to leave the record open for submission of a new conceptual plan showing the proposed ponds, and submission of any proposed environmental conditions; the record will remain open until April 2, 2018 for receipt of this information (in writing) only; thereafter, a report will be given to the Council on April 10, 2018; thereafter, the record will remain open for 15 days for written public comment on the information received.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 206 18
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 3:45 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

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