

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 16, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 16, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	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 187 19
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of April 9, 2019 were approved by consent.

**Public
Comments**

Public Comments

Jim Martin commented on the need for tiny home communities for the homeless and unsheltered and he asked Council to schedule a study session to discuss this proposal.

Estella Parker Selby spoke in support of CHEER's kitchen campaign.

Paul Reiger commented on "the confusing process" of building permits and setback requirements.

Dan Kramer commented on the homeless and stated that land and homes are available.

Report

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

**Adminis-
trator's
Report
(continued)**

1. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Friday, April 19th, to observe the Good Friday holiday. In addition, Council will not meet on Tuesday, April 23rd. The next regularly scheduled Council meeting will be held on Tuesday, April 30th, at 10:00 a.m.

**Public
Hearing/
Proposed
Ordinance/
Permitted
Uses**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING AND ZONING COMMISSION AS TO PERMITTED USES".

The Planning and Zoning Commission held a Public Hearing on this application on March 14, 2019 at which time the Commission recommended approval.

Jamie Whitehouse, Planning and Zoning Manager, explained that the Proposed Ordinance is to provide clarity on which body can make a determination regarding uses. Currently, both the Board of Adjustment and the Planning and Zoning Commission have the ability to determine if a use is similar to other uses permitted within a district. The Ordinance will remove the conflict by having only the Planning and Zoning Commission to make the determination of uses which will streamline the process since it removes the requirement for a public hearing.

Vince Robertson, Assistant County Attorney, stated that the Proposed Ordinance does not expand anything that is permitted in any of the districts.

There were no public comments.

The Public Hearing and public record were closed.

**M 188 19
Adopt
Ordinance
No. 2644**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2644 entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES III AND XXVII, SECTIONS 115-15 AND 115-210 REGARDING A DETERMINATION BY THE SUSSEX COUNTY PLANNING & ZONING COMMISSION AS TO PERMITTED USES".

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Delaware
Coast Line
Railroad/
Sublease
Approval**

Jim Hickin, Airport Manager, reported that Delaware Coast Line Railroad (DCLR) is requesting approval to sublease a portion of the property (Lots 19 and 20) in the Delaware Coastal Business Park to The Andersons, Inc. The Andersons, Inc. specializes in rail car repair and will use the DCLR facility for this. The Andersons' use of the property will be in accordance with the current lease; no amendment to the lease is required. Mr. Hickin stated that Council's approval to sublease is recommended.

**M 189 19
Approve
Sublease/
Delaware
Coast Line
Railroad**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council consents to Delaware Coast Line Railroad entering into a Commercial Lease Agreement with The Andersons, Inc. for the use of portions of Lots 19 and 20 in the Delaware Coastal Business Park.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

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

**M 190 19
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$200.00 from Mr. Wilson's Councilmanic Grant Account to the Sussex Community Crisis Housing Services (Crisis House) for a community garden project.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 191 19
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$600.00 (\$120.00 from each Councilmanic Grant Account) to Marine Corps League for Delaware Devil Dogs Detachment annual golf tournament fundraiser.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Request
to Post
Notices/
Lighthipe
Annexation**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Lighthipe Expansion of the Sussex County Unified Sanitary Sewer District (Bethany Beach Area). The expansion was requested by Davis Bowen & Friedel on behalf of their clients, Convergence Communities for Parcel 132-17.00-12.00. The front half of the project is near completion and the final step of annexation into the district was never

Lighthipe Annexation (continued) confirmed by the consulting engineers; apparently their request and check were lost in the mail. The property owners will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.

M 192 19 Authorize Posting of Notices/ Lighthipe Annexation A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Lighthipe Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 132-17.00-12.00, as presented on April 16, 2019.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Use of Existing Infrastructure Agreement/ Fenwick Light Project John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Christopher Management, Inc. for the Fenwick Light project. Christopher Management, Inc. will contribute \$15,206.00 for the financial catch-up contribution of the existing infrastructure to serve 10.0 Equivalent Dwelling Units. Payment will be required prior to receiving a connection permit for the facility. The Agreement will allow the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County. System connection charges of \$6,360.00 or the fee at time of permit request will still be due prior to a building permit being issued.

M 193 19 Approve Use of Existing Infrastructure Agreement/ Fenwick Light Project A Motion was made by Mr. Rieley, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Christopher Management Inc. for a capacity allocation in the Regional Transmission System, as presented on April 16, 2019.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Use of Existing Infrastructure Agreement/ Allen Harim Hatchery Project John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Allen Harim Foods, LLC for the Allen Harim Hatchery project. Allen Harim Foods, LLC will contribute \$19,390.00 for the financial catch-up contribution of the existing infrastructure to serve 65.71 Equivalent Dwelling Units. Payment will be required prior to receiving a connection permit for the facility. The Agreement will allow the wastewater originating from the approved project to be conveyed through the existing transmission system previously

(continued) constructed by the County.

M 194 19
Approve
Use of
Existing
Infra-
structure
Agreement/
Allen
Harim
Hatchery
Project

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Allen Harim Foods LLC for a capacity allocation in the regional transmission system, as presented on April 16, 2018.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Public
Hearing/
Proposed
Ordinance
Relating to
Assisted
Living
Facilities

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-88”.

The Planning and Zoning Commission held a Public Hearing on this application on March 14, 2019 at which time the Commission recommended approval.

Jamie Whitehouse, Planning and Zoning Manager, explained that the Proposed Ordinance seeks to clarify the process for assisted living facilities, convalescent homes, nursing homes, and homes for the aging. Currently, the Board of Adjustment can approve these uses through a special use exception process in the AR-1, MR, GR, UR, UB, B-1, C-1, and CR-1 zoning districts. All the new commercial zones created last year have definitions created for the type of uses like assisted living facilities, graduate care facilities, extended care facilities, independent care facilities, intermediate care facilities, nursing and similar care facilities. Mr. Whitehouse advised that the Proposed Ordinance would bring all of the terms into alignment with the new definitions approved last year and it would change the approval process. The uses would be a conditional use within the AR-1, MR, GR, UR, and UB zoning districts; the uses would be permitted uses within the B-1, C-1 and CR-1 zoning districts and would be in alignment with the uses permitted in the new zoning districts.

Vince Robertson, Assistant County Attorney, explained that, currently, the Code refers to convalescent homes, nursing homes and homes for the aging but it does not define any of those terms; that in the new commercial zoning districts, nursing and similar care facilities, assisted living facilities, extended care facilities, graduate care facilities, independent care facilities, intermediate care facilities, and long term care facilities were defined. Mr. Robertson stated that the Planning and Zoning Commission commented

**Public Hearing/
Proposed Ordinance
Relating to Assisted Living Facilities
(continued)**

that these are land use zoning-type decisions and should go through Planning and Zoning and County Council.

Public comments were heard.

Dan Kramer stated that there is a problem with the way the Proposed Ordinance is written; that it references *nursing and similar care facilities* and it leaves matters open for interpretation, and that these types of facilities should have been taken out of “Conditional Uses” and should have been placed in one zoning category – Institutional Uses.

Paul Reiger thanked the Council for the Proposed Ordinance. He questioned setbacks for assisted living facilities in certain districts; commented on the benefit of these facilities coming in under Conditional Uses versus a rezoning; and raised questions on a potential loophole.

Jan O’Maras spoke in support of the Proposed Ordinance and the process proposed.

Bob Viscount spoke in support of the Proposed Ordinance, stating that the current process is confusing and a burden.

Jim Walpole spoke in support of the Proposed Ordinance, stating that the current process is confusing.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 195 19
Adopt Ordinance
No. 2645**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2645 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VIII, IX, X, XI, XIA, AND XII, SECTIONS 115-22, 115-23, 115-31, 115-32, 115-39, 115-40, 115-55, 115-56, 115-63, 115-64, 115-71, 115-72, 115-77, 115-80, 115-83.2, 115-83.6, 115-87 AND 115-88”.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Angola
North
Expansion
Project
17-04**

Hans Medlarz, County Engineer, presented the Final Balancing Change Order and request to grant Substantial Completion for the Angola North Expansion – SR24, Love Creek and Camp Arrowhead Road Project (Project 17-04). Mr. Medlarz reported that this project was substantially complete on September 27, 2018 and that the proposed Change Order No. 2 includes a credit for additional field engineering and inspection resulting from a 67-calendar day extension. In addition, it covers costs associated

Angola North Expansion Project 17-04 (continued) with duplex grinder pump station modifications, hot mix and concrete driveway transitions, right-of-way restoration and a credit for reduction of bid item quantities. The Engineering Department recommends approval of Change Order No. 2 in the credit amount of \$506,601.82 for a final contract value of \$5,261,147.76 and recommends granting Substantial Completion of the project.

M 196 19 Approve Change Order and Grant Substantial Completion/ Angola North Expansion Project 17-04 A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract #17-04, Angola North Expansion – SR 24, Love Creek and Camp Arrowhead Road, be approved, which decreases the contract amount by \$506,601.82, for a new contract total of \$5,261,147.76, and that Substantial Completion be granted effective September 27, 2018, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

RFP Results/ Aviation Planning Services Hans Medlarz, County Engineer, and Patrick Brown, Project Engineer, presented the results of the Request for Proposals (RFP) for Consultant Selection for Aviation Planning Services (RFP 19-25). The RFP was for professional services to perform a Master Plan Update at the Delaware Coastal Airport. Mr. Brown reported that two firms responded to the RFP and that it is the recommendation of the Selection Committee to begin contract negotiations with MacFarland Johnson. The terms of the agreement, including scope, schedule and fee shall be reviewed for FAA compliance then returned to Council for final discussion and contract approval.

M 197 19 Approve Consultant Selection for Aviation Planning Services/ MacFarland Johnson A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Consultant Selection Committee of the Engineering Department, that the Sussex County Council approves the selection of MacFarland Johnson for Aviation Planning Services and begin contract negotiations to establish a Professional Services Agreement.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Consultant Selections/ Recommendation Hans Medlarz, County Engineer, and Patrick Brown, Project Engineer, reported that the Engineering Department undertakes a variety of improvement projects each year concurrent with the annual operation and maintenance of County assets; that from time to time, the need arises for

Consultant Selections/ Recommendation (continued)

specific professional services to supplement and support County personnel. Although a Miscellaneous Engineering Contract is maintained annually for as-needed expertise and supplemental services, the specific geotechnical engineering and land survey fields were identified as unique disciplines where a firm qualified in the individual service area will complement the Department's project needs. Therefore, two RFPs were issued, one for Geotechnical Engineering Services and one for Land Survey and Mapping Services.

Geo-technical Services RFP

Mr. Brown reported that three firms responded to the Geotechnical Engineering Services RFP and that it is the recommendation of the Selection Committee to begin contract negotiations and to execute a Professional Service Agreement with Hillis-Carnes Engineering for on-call Geotechnical Engineering Services to supplement and support the Department over a five year contract period, with an annual cost not to exceed \$50,000.00.

M 198 19 Approve Selection of Firm for Geo-technical Engineering Services

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Consultant Selection Committee of the Engineering Department, that the Sussex County Council approves the selection of Hillis-Carnes Engineering to provide on-call Geotechnical Engineering Services, as needed, and to negotiate a Professional Services Agreement for a five (5) year period, with an annual cost not to exceed \$50,000.00.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Land Survey and Mapping Services RFP

Mr. Brown reported that ten firms responded to the Land Survey and Mapping Services RFP and that it is the recommendation of the Selection Committee that Council authorize the Engineering Department to negotiate and execute a Professional Services Agreement with Davis, Bowen & Friedel, Inc. to support the Department over a five year contract period, with an annual cost not to exceed \$75,000.00.

M 199 19 Approve Selection of Firm for Land Survey and Mapping Services

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Consultant Selection Committee of the Engineering Department, that the Sussex County Council approves the selection of Davis, Bowen & Friedel to provide on-call Land Survey and Mapping Services, as needed, and to negotiate a Professional Services Agreement for a five (5) year period, with an annual cost not to exceed \$75,000.00.

Motion Adopted: 5 Yeas.

**M 199 19
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 200 19
Go Into
Executive
Session**

**At 11:07 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton,
to recess the Regular Session and go into Executive Session for the purpose
of discussing matters relating to pending litigation and land acquisition.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Executive
Session**

**At 11:10 a.m., an Executive Session of the Sussex County Council was held
to discuss matters relating to pending litigation and land acquisition. The
Executive Session concluded at 12:12 p.m.**

**M 201 19
Reconvene
Regular
Session**

**At 12:15 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson,
to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea**

E/S Action

There was no action on Executive Session matters.

**M 202 19
Recess**

**At 12:15 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson,
to recess until 1:30 p.m.**

Motion Adopted: 3 Yeas, 2 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Absent;
Mr. Vincent, Yea**

**M 203 19
Reconvene**

**At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson,
to reconvene.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Rules

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

**Public
Hearing/
CZ 1874
and
CU 2164**

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 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 1.2 ACRES, MORE OR LESS” (Change of Zone No. 1874) and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM - DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.2 ACRES, MORE OR LESS” (Conditional Use No. 2164) filed on behalf of Leanna and Hung Nguyen (Tax I.D. No. 334-19.00-1.06) (911 Address: None Available).

The two (2) applications were consolidated into one public hearing.

The Planning and Zoning Commission held a Public Hearing on these applications on March 14, 2019 at which time action was deferred. On March 28, 2019, the Commission recommended approval of both applications (with conditions).

(See the minutes of the Planning and Zoning Commission dated March 14 and 28, 2019.)

Jamie Whitehouse, Planning and Zoning Manager, presented the applications.

The Council found that Mark Davidson with Pennoni Associates was present with the Applicants, Leanna and Hung Nguyen. Mr. Davidson stated that the Applicants have owned the property since June 2018; that the application is for a multi-family structure - five (5) units within one building; that the Applicants and their children will live in the structure; that, eventually, their children’s families will live in the structure; that the multi-family dwelling will be a three and one-half story dwelling with a meditation/zen room on the “fourth” floor; that each of the three floors will consist of 4,100 square feet; that there will be no garages; that there will be 67% open space; that there will be a landscaped buffer around the entire property; that there will be a stormwater management area and no stormwater will exit the site; that no Traffic Impact Study was required; and that the entrance to the site will be from Old Landing Road. Mr. Davidson reviewed surrounding developments in the area. Mr. Davidson stated that the applications are in compliance with the Zoning Ordinance and the Comprehensive Plan and that the project is in character with the nature of the area in that it provides for maintaining the residential character of the neighborhood.

There were no public comments.

(continued) The Public Hearing and public record were closed.

M 204 19
Adopt
Ordinance
No. 2646/
CZ 1874

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2646 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 1.2 ACRES, MORE OR LESS” (Change of Zone No. 1874) filed on behalf of filed on behalf of Leanna and Hung Nguyen.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

M 205 19
Adopt
Ordinance
No. 2647/
CU 2164

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2647 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM -DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.2 ACRES, MORE OR LESS” (Conditional Use No. 2164) filed on behalf of filed on behalf of Leanna and Hung Nguyen, with the following conditions:

- A. The maximum number of residential units shall be five (5).**
- B. All entrance, intersection, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DeIDOT 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. The Applicants have proposed a 20-foot wide vegetated buffer in accordance with Section 115-218 of the Zoning Code. There shall be a vegetated or forested buffer of at least 20-feet in width around the entire perimeter of the project, with the exception of the entrance area of the project.**
- F. The Applicants shall submit as part of the Final Site Plan, a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.**
- G. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 5:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the**

**M 205 19
Adopt
Ordinance
No. 2647/
CU 2164
(continued)**

site on Sundays.

- H. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.**
- I. The Applicants have proposed a unique design of the proposed building that includes substantial changes to the current grade of the property. These grade changes will have a significant impact on run-off and stormwater management on the property. The stormwater management system shall be carefully designed in cooperation with the Sussex Conservation District to meet or exceed the requirements of the State and County and shall not permit run-off from this property onto neighboring properties. 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. This project shall not become a dormitory, boarding house or similar type of use and must comply at all times with the occupancy requirements for multi-family dwellings set forth in the Zoning Code.**
- L. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.**
- M. 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. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2165**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF AND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.99 ACRES, MORE OR LESS” (Conditional Use No. 2165) was filed on behalf of Vanderwende Acres, LLC (Tax I.D. No. 531-6.00-72.00 (portion of) (911 Address: 22304 Atlanta Road, Seaford).

The Planning and Zoning Commission held a Public Hearing on this application on March 14, 2019 at which time action was deferred. On March 28, 2019, the Commission recommended approval, with conditions.

(See the minutes of the Planning and Zoning Commission dated March 14 and 28, 2019.)

Jamie Whitehouse, Planning and Zoning Manager, presented the application.

**Public
Hearing/
CU 2165
(continued)**

The Council found that D.J. Hughes with Davis, Bowen and Friedel was present on behalf of the application with the Applicants, Donna and Jimmy Vanderwende. Mr. Hughes stated that the application is for a special events venue on 9 acres; that the Applicants have made improvements to the existing barn and added pavilions and a patio; that they will only use the first floor of the barn since a sprinkler system would be required to use the second floor; that the closest residence is .25 mile away; that there is ample room for parking; that there would be no issues with vehicles stacking up on the main road; that no Traffic Impact Study was required; that there will be no overnight accommodations; and that the site would not be used on a daily basis.

There were no public comments.

The Public Hearing and public record were closed.

**M 206 19
Adopt
Ordinance
No. 2648/
CU 2165**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2648 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF AND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.99 ACRES, MORE OR LESS" (Conditional Use No. 2165) was filed on behalf of Vanderwende Acres, LLC, with the following conditions:

- A. Food and beverage service and music or similar entertainment is permitted.
- B. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.
- C. All entrance locations shall be subject to the review and approval of DeIDOT.
- D. 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. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

**Public
Hearing/
CU 2172**

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 TRANSITIONAL HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.3028 ACRES, MORE OR LESS" (Conditional Use No. 2172) filed on behalf of Iris Downing (Tax I.D. No. 230-26.20-18.00) (911 Address: 18366 Wild Cherry Street, Ellendale).

**Public
Hearing/
CU 2172
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on March 14, 2019 at which time action was deferred. On March 28, 2019, the Commission recommended approval, with conditions.

(See the minutes of the Planning and Zoning Commission dated March 14 and 28, 2019.)

Jamie Whitehouse, Planning and Zoning Manager, presented the application.

The Council found that Tim Willard, Attorney, was present with the Applicant, Iris Downing. He stated that the Applicant wishes to operate a transitional home to help the homeless; that the transitional home would be a private home which would have up to 10 rooms; that the Applicant previously operated a day care for twenty years; that staff would provide support for the homeless, i.e. help searching for jobs and providing transportation; that housing will be on a temporary or transitional basis; that the use would be a semi-public use; that the use would not impact neighboring properties; that there would be adequate parking using the existing driveway for a parking lot; that no Traffic Impact Study was required; that no sign is needed; and that the homes would be leased to the homeless based on their ability to pay.

There were no public comments.

The Public Hearing and public record were closed.

**M 207 19
Adopt
Ordinance
No. 2649/
CU 2172**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2649 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRANSITIONAL HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.3028 ACRES, MORE OR LESS” (Conditional Use No. 2172) filed on behalf of Iris Downing, with the following conditions:

- A. Transitional housing shall be available on this site to no more than 12 individuals plus the staff required to operate the facility.**
- B. As proposed by the Applicant, the housing will be on a temporary or transitional basis and it shall not become a long-term boarding house. No residents shall remain in the home for more than 18 months, except for support staff.**
- C. The use shall maintain its residential appearance.**
- D. The facility shall be staffed on a 24-hour, 7 day per week basis to control compliance with the occupancy limitations and to ensure that it is operated in a clean and organized manner at all times.**
- E. The use shall comply with all Sussex County parking requirements.**
- F. The site shall comply with any requirements of the Sussex Conservation District.**

**M 207 19
Adopt
Ordinance
No. 2649/
CU 2172
(continued)**

- G. No signage shall be permitted.**
- H. As stated by the Applicant, staff at the home shall partner with a local organization familiar with the homeless to assist in the qualification, referral, and placement of residents to the home.**
- I. The operator of the home shall comply with all Federal State and local laws governing the operation of the home.**
- J. The site shall comply with all requirements of the Delaware Department of Transportation.**
- 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. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 208 19
Adjourn**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to adjourn at 2:27 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, 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.}