

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 7, 2022

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 7, 2022, at 1:00 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
Douglas B. Hudson	Vice President
John L. Rieley	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
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 243 22
Approve
Agenda**

Mr. Lawson reported that the Administrator's Report can be removed from the Agenda. A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda as amended.

Motion Adopted: 4 Yeas, 1 Absent

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

Minutes

The minutes of the May 24, 2022 meeting were approved by consensus.

**Corres-
pondence**

Mr. Moore reported that correspondence was received from Shoes That Fit in appreciation of a grant received.

**Public
Comment**

There were no public comments.

**Bulk WW
Services
Agreement/
Addendum
No. 6**

Hans Medlarz, County Engineer presented a credit adjustment for a bulk wastewater services agreement with Artesian Wastewater Management, Inc. and Addendum No. 6 for the Bulk Wastewater Services Agreement for Council's consideration.

**M 244 22
Bulk WW
Services &
Addendum
No. 6
Approval**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering and Finance Department, that the Sussex County Council approve the credit adjustment letter agreement as well as Addendum No. 6 to the Bulk Wastewater Services Agreement between Sussex County and Artesian Wastewater Management, as presented.

Motion Adopted: 4 Yeas, 1 Absent

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

**Appraisal
Services
Contract
Extension**

Hans Medlarz, County Engineer presented a one-year extension request for appraisal services for Council's consideration. Mr. Medlarz explained that the contract is due to expire on August 1, 2022. The current vendor, W.R. McCain is willing to honor their fees as they were proposed five years ago.

**M 245 22
Contract
Extension
Approval**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approve a one-year extension period to the current agreement with W.R. McCain.

Motion Adopted: 4 Yeas, 1 Absent

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

**SCWRF &
RB WTP/
Project C19-
11/CO No.
23**

Hans Medlarz, County Engineer presented Change Order No. 23 for Project C19-11, general construction for SCWRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council's consideration. The Change Order includes painting of the original 1970s mechanical building pump room.

**M 246 22
Project C19-
11/CO No.
23 Approval**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 23 for C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction be approved, increasing the contract by \$7,893.90.

Motion Adopted: 4 Yeas, 1 Absent

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

**SCWRF &
RB WTP/
Project C19-
17/CO No.
18**

Hans Medlarz, County Engineer presented Change Order No. 18 for Project C19-17, electrical construction for South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 for Council's consideration. The Change Order covers the electrical and control upgrades associated with the pump and rail systems that were previously approved. In addition, the request includes a safety and security upgrade regarding the lighting and ability to access cameras as well as network access points.

M 247 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it**
Project C19- **moved based upon the recommendation of the Sussex County Engineering**
17/CO No. **Department, that Change Order No. 18 for contract C19-17, SCRWF**
18 Approval **Treatment Process Upgrade No. 3 & RBWTP Capital Improvement**
 Program, Phase 2 – Electrical Construction, be approved, for an increase of
 \$143,076.73.

Motion Adopted: 4 Yeas, 1 Absent

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

Grant

Requests

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

M 248 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**
Children’s **\$2,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant Account and**
Beach House **\$1,000 from Mr. Hudson’s Councilmanic Grant Account) to Children’s**
 Beach House, Inc. for Youth Development Program.

Motion Adopted: 4 Yeas, 1 Absent

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

M 249 22 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give**
Millsboro **\$3,000 (\$2,000 from Mr. Rieley’s Councilmanic Grant Account and \$500**
Historical **from Mr. Hudson and Mr. Schaeffer’s Councilmanic Grant Accounts) to**
Society **Millsboro Historical Society for Godwin School maintenance.**

Motion Adopted: 4 Yeas, 1 Absent

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

M 250 22 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,500**
Greater **(\$2,500 from Mr. Rieley’s Councilmanic Grant Account) to Greater**
Georgetown **Georgetown Chamber of Commerce for the Pathways to Aviation program.**
Chamber of
Commerce

Motion Adopted: 4 Yeas, 1 Absent

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

M 251 22 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**
Rehoboth **\$1,130 (\$1,130 from the Countywide Youth Grant Account) to Rehoboth**

Summer Children's Theatre

Summer Children's Theatre for operating expenses.

Motion Adopted: 4 Yeas, 1 Absent

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

**M 252 22
Town of Millsboro**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to give \$3,895 (\$3,895 from Mr. Rieley's Councilmanic Grant Account) to the Town of Millsboro for their interceptor power bike program.

Motion Adopted: 4 Yeas, 1 Absent

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

Introduction of Proposed Ordinances

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS"

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.83 ACRES, MORE OR LESS "

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS"

Mr. Schaeffer introduced a Proposed Ordinance entitled "AN ORDINANCE

Introduction of Proposed Ordinances (continued) **TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 334-12.00-16.04”**

The Proposed Ordinances will be advertised for Public Hearings.

Council Member Comments’

There were no Council Member comments.

M 253 22 Go Into Executive Session

At 1:21 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to land acquisition.

Motion Adopted: 4 Yeas, 1 Absent

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

Executive Session

At 1:23 p.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition. The Executive Session concluded at 1:42 p.m.

M 254 22 Reconvene

At 1:45 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session and back into Regular Session.

Motion Adopted: 3 Yeas, 2 Absent

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

E/S Action

There was no action on Executive Session items.

Rules

Mr. Moore read the procedure for public hearings on zoning matters.

**Public Hearing/
CZ1933**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.62 ACRES, MORE OR LESS” (property lying on the south side of Lighthouse Road [Route 54], approximately 0.39 mile east of Johnson Road [S.C.R. 390]) (911 Address: 33006 Lighthouse Road, Selbyville) (Tax Parcel: 533-18.00-59.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the eight reasons stated.

**Public
Hearing/
CZ1933
(continued)**

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Daniel Bunting spoke on behalf of Applications, CZ 1933 Route 54 Limited Partnership and CZ 1934 Bunting Holdings, LLC; that the area of Route 54 has grown with residential housing and subdivisions all around; that it is believed that the C-2 zoning around areas that are all zoned C-1 would allow planning for the future and serve those residents best; that there are no immediate plans for the site; that once this rezoning occurs, it will help plan for the future; that the property to the left is the location for the Bunting Construction office; that both properties have been placed through the PLUS process; that both Applications have received no objection from DelDOT or DNREC; that a 4-0 favorable vote was received from the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 255 22
Adopt
Ordinance
No. 2855/
CZ1933**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2855 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.62 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1 through 8 as follows:

- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.**
- 2. The Applicant’s property is located along Lighthouse Road, also known as Route 54. It is surrounded by other properties that are zoned C-1 General Commercial. This rezoning makes one connected block of commercial zoning in this area of Lighthouse Road.**
- 3. C-2 Zoning at this location in the middle of the existing C-1 Zoning along Lighthouse Road will benefit nearby residents and visitors of Sussex County by providing a convenient location for retail uses or consumer services.**
- 4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 5. This site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
- 6. No parties appeared in opposition to this rezoning application.**
- 7. The proposed rezoning meets the general purpose of the Zoning**

**M 255 22
Adopt
Ordinance
No. 2855/
CZ1933
(continued)**

Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.

8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CZ1934**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS” (property is a landlocked parcel of land lying on the south side of Lighthouse Road [Route 54] approximately 0.39 mile each of Johnson Road [S.C.R. 390]) (911 Address: N/A) (Tax Parcel: 533-18.00-58.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the nine reasons stated.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Daniel Bunting spoke on behalf of Applications, CZ 1933 Route 54 Limited Partnership and CZ 1934 Bunting Holdings, LLC; that the area of Route 54 has grown with residential housing and subdivisions all around; that it is believed that the C-2 zoning around areas that are all zoned C-1 would allow planning for the future and serve those residents best; that there are no immediate plans for the site; that once this rezoning occurs, it will help plan for the future; that the property to the left is the location for the Bunting Construction office; that both properties have been placed through the PLUS process; that both Applications have received no objection from DelDOT or DNREC; that a 4-0 favorable vote was received from the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2856 entitled “AN ORDINANCE TO AMEND THE

**M 256 22
Adopt
Ordinance
No. 2856/
CZ1934**

COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning numbered 1-9 as follows:

- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.**
- 2. The Applicant’s property is landlocked immediately west of the property fronting on Lighthouse Road (Route 54). With the exception of the property that is the subject of CZ 1933 for C-2 Zoning, all of the property in this area along Lighthouse Road is zoned Commercial. This rezoning is consistent with the existing zoning in this area.**
- 3. This property’s only access is via the property this is the subject of C/Z 1933, which is under the same ownership or control as this property. As a result, it is appropriate for both properties to be uniformly zoned as C-2.**
- 4. C-2 Zoning at this location along Lighthouse Road will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.**
- 5. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 6. This site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.**
- 7. No parties appeared in opposition to this rezoning application.**
- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
- 9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CZ1980**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.91 ACRES, MORE OR LESS” (property lying on the south side of Atlantic Avenue [Route 26] approximately 475 ft. east of Powell Farm Road [S.C.R. 365]) (911 Address: 34464 Atlantic Avenue, Ocean View) (Tax Parcel: 134-11.00-191.00)

**Public
Hearing/
CZ1980
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application for the nine reasons stated.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Ms. Mackenzie Peet, Esq, spoke on behalf of the Application; that she is an attorney with Baird Mandalas Brockstedt, LLC; that also present were members of MARS-RE, LLC, Mr. Roger Schwandtner, as well as, Mr. John Murray, Senior Project Manager with Mott MacDonald Company; that the Applicant submitted a supplemental exhibit packet to Planning and Zoning on April 14, 2022; that the Applicant appeared before the Planning and Zoning Commission on April 28, 2022; that on May 12, 2022, the Commission recommended unanimous approval for nine reasons; that the site is located on the southwest side of Atlantic Ave., Rt. 26; that the site is located approximately 350-ft. east of the four way intersection of Powell Farm Rd., Omar Rd., Vines Creek Rd. and Atlantic Ave.; that nearby commercial and residential developments, which include a property located on the opposite side of the property, which is zoned CR-1 (Commercial Residential); that the property operates as a Carquest Auto Parts and Marine store; that the next adjacent site is a Goodyear Tire Center; located east on Atlantic Ave. is Good Earth Market, which is zoned CR-1 (Commercial Residential); that at the intersection of Roxana Rd. and Atlantic Ave. there are properties zoned as C-1 (General Commercial), B-2 (Business Community), and CR-1 (Commercial Residential); that at the intersection of Roxana Rd. and Atlantic Ave. there are a number of commercial uses, which include the Creative Concepts furniture store, Liberty gas station, Hockers store and Walgreens; that in the opposite direction of the intersection of Roxana Rd. and Atlantic Ave. is the location of St. George's Church, as well as properties zoned as MR (Medium-Density Residential) and GR (General Residential); that the site is currently vacant with trees bordering the rear yard perimeter of the site; that a small area of non-tidal wetlands, consisting of 0.45-acres; that within the Conceptual Site Plan it is shown the wetlands wrap around the rear yard and along the side yard; that open space has been prioritized; that the non-tidal wetlands will remain as an undisturbed area; that the project is located with the St. George's Tax Ditch Watershed, which is noted on the Site Plan; that the Applicant will submit the plan to DNREC's Tax Ditch Section, subject to the approval of the rezoning request; that the project is located within Tier I of the Sussex County Unified Sewer District; that central sewer is anticipated to be provided by Sussex County; that central water is anticipated to be provided by Tidewater Utilities, Inc.; that the stormwater management system will meet or exceed the requirements of the State and Sussex County; that the project is located within Investment Level 2 and Investment Level 3; that the intended future use is a mixed-use

**Public
Hearing/
CZ1980
(continued)**

development which will consist of a commercial space and multi-family residential units or any other permitted use within C-3 (Heavy Commercial); that other permitted uses with C-3 (Heavy Commercial) are agricultural related uses, such as commercial greenhouses and wholesale nurseries, residential uses such as hotels and motels, and commercial uses including convenience stores, gas stations, restaurants, business parks and professional offices; that it is believe that this rezoning request is consistent with the Comprehensive Plan and surrounding uses.

Mr. Hudson asked for clarification regarding the building height. Ms. Peet replied that in the initial submission of the application, there was a different engineer working on the project. In addition, the original rezoning request was to HR-2, not C-3. Therefore, the height of the proposed building will comply with the 42 feet height requirement for C-3 subject to the approval.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 257 22
Adopt
Ordinance
No. 2857/
CZ1980**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2857 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.91 ACRES, MORE OR LESS" for the reasons given by Planning and Zoning numbered 1-9 as follows:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. This property is located along Route 26, which is considered to be a Major Collector roadway according to DelDOT's roadway classification. Major Collector roads are appropriate locations for C-3 Zoning.
3. The parcel is in a section of Route 26 where there are commercial zones and business and commercial uses that have developed. This includes 6 commercial rezoning's in the area since 2011. This location along this part of Route 26 is appropriate for this type of zoning, and it will not adversely affect the neighboring properties.
4. The site is served by central water and sewer.
5. This property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. C-3 Zoning at this location along Route 26 will provide convenient commercial services to visitors and residents of Sussex County.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting orderly growth, convenience, order prosperity, and

welfare of the County.

8. No parties appeared in opposition to this rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

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

Mr. Whitehouse reported that on June 2, 2022, a letter was received from the applicant requesting CZ1956 be withdrawn.

CZ1956

**Withdraw
Request**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to allow the applicant of CZ1956 to withdraw their application.

M 258 22

**Accept
Withdraw/
CZ1956**

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2341**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS” (property lying on the southeast side of Shawnee Road [Route 36], approximately 0.23 mile south of Abbots Pond Road [S.C.R. 620]) (911 Address: N/A) (Tax Parcel: 130-6.00-22.00)

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2022, and on May 12, 2022, the Commission recommended approval of the application subject to the six reasons stated and thirteen recommended conditions.

(See the minutes of the Planning and Zoning Commission dated April 28 and May 12, 2022.)

Jamie Whitehouse, Planning and Zoning Director presented the application.

The Council found that Mr. Caden Oplinger spoke on behalf of his Application; that he is seeking a conditional use for a farm tractor and truck repair shop; that he has been leasing property to do this type of work; that he would like to get his own place; that there will be no tractors or trucks parked outside; that all of the repairs will occur inside in the shop;

**Public
Hearing/
CU2341
(continued)**

that he is agrees with the conditions recommended by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and Public Record were closed.

**M 259 22
Adopt
Ordinance
No. 2858/
CU2341**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Ordinance No. 2858 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND TRUCK REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20 ACRES, MORE OR LESS" for the reasons 1-6 and conditions 7 A-M given by Planning and Zoning as follows:

1. The proposed repair facility is small, and with the conditions and stipulations placed upon it. It will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The location is mostly surrounded by farms and other large tracts of land. The Applicant lives behind the site and his grandfather lives next door. The Applicant stated that none of the neighbors oppose his plans.
3. The proposed use provides a service to Sussex County farmers and small businesses in the area by providing a convenient location for diesel repair services for trucks and agricultural equipment.
4. The Applicant proposes to use a 60-foot by 80-foot building for the business. This use, within the proposed workshop building, is very similar to the type of repair and maintenance work that a farmer would be permitted to do on his or her farm equipment under the existing AR-1 zoning.
5. No parties appeared in opposition to this Application.
6. The Applicant seeks a Conditional Use for the entire 20-acre parcel. The Applicant has stated that he only needs a Conditional Use for the front portion of the property where the proposed use will actually be located. As a result, this recommendation is to approve the Conditional Use for the entire front 350 feet of the property, which extends beyond the proposed workshop building with enough extra space for reasonable expansion and setbacks.
7. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be limited to repairs on trucks and farm equipment. There shall not be any retail sales occurring on the property.
 - B. The use shall be limited to the front 350 feet of the property. The Final Site Plan shall clearly depict this reduced area of the Conditional Use.
 - C. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.

**M 259 22
Adopt
Ordinance
No. 2858/
CU2341**

- D. Security lighting shall be shielded and downward screened so that it is directed away from neighboring properties and roadways.**
- E. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- F. All repairs shall occur indoors within the proposed building. No outside storage of parts or other materials associated with the use shall be permitted.**
- G. No junked, unregistered, or permanently inoperable vehicles, trucks or trailers shall be stored on the site.**
- H. There shall not be any parking in the front yard setback.**
- I. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Trucks and farm equipment shall only be parked within these designated areas.**
- J. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
- K. The site shall be subject to DelDOT entrance and roadway requirements.**
- L. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**M 260 22
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 2:13 p.m.

Motion Adopted: 4 Yeas, 1 Absent

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

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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