

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 29, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 29, 2021, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina 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 267 21
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 15 and 22, 2021 were approved by consent.

**Public
Comments**

Mr. Moore noted that correspondence was received from the Georgetown Public Library and The Home of the Brave Foundation in appreciation of grant funding.

Public comments were heard and the following spoke:

William Kinnick, President of the Delaware Manufactured Housing Association, reported on raw sewage in 13 manufactured home communities in the County and he asked that the County hold placement permits for these communities. Mr. Kinnick also referenced the drinking water issue in these communities.

Mr. Vincent asked that the County hold placement permits for these communities until the problems are resolved.

Report

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

**Adminis-
trator's
Report**

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Outer Banks North (Construction Record) received Substantial Completion effective June 14th.

2. Holiday and Council Meeting Schedule

County offices will be closed on Monday, July 5th, for the Independence Day holiday. In addition, Council will not meet on July 6th. The next regularly scheduled Council meeting will be held on Tuesday, July 13th.

3. Joyce Watkinson

It is with sadness that we note the passing of County pensioner Joyce Watkinson on Thursday, June 24th. Mrs. Watkinson began her career with Sussex County in May 1984 and retired from the Planning & Zoning Department in January 2011. We would like to extend our condolences to the Watkinson family.

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

**Excite
Sussex
Loan/
Miller
Metal
Project**

Bill Pfaff, Economic Development Director, discussed the ExciteSussex Loan Program including the framework for the Fund and he presented a recommendation to offer a loan for the Miller Metal project in Bridgeville. The Miller Metal project is an approximate \$6 million project and the loan request to the County is for \$5 million. Per the framework of the Loan Program, the loan limit is \$1 million and for this reason, Mr. Pfaff has packaged out the loan. He reported that the Grow Delaware Fund will loan the project \$2.5 million. He recommended that the County fund \$2.5 million which is beyond the established loan amount for the ExciteSussex Loan Program;. The County's contribution into the Loan Fund is \$625,000 of the \$2.5 million; the difference of \$1,875,000 would be funded by monies granted by Discover Bank to the County for the Fund. Mr. Pfaff presented the public benefits of the Miller Metal project, including the number of employees which will total 141 (at a minimum) in Bridgeville.

**M 268 21
Approve
Loan
Package/
Excite
Sussex
Loan/
Miller
Metal**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that the Sussex County Council approves the loan package under the ExciteSussex Loan Fund for Miller Metal, Bridgeville, in an amount not to exceed \$2.5 million.

Motion Adopted: 5 Yeas.

**M 268 21
(continued)**

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

**Compre-
hensive
Land Use
Plan
Annual
Report**

Jamie Whitehouse, Planning and Zoning Director, presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was completed by the County in 2018 and certified by the Governor in March 2019; this is the second annual report on year two progress (for the July 1, 2020 through June 30, 2021 review period). He noted that the County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan, the most significant of which is the Henlopen Transportation Improvement District (TID) and the Funding Accelerating Safety in Transportation (FAST) Track Program. (The full report was included in the Council packets for this meeting.)

**M 269 21
Approve
Compre-
hensive
Land Use
Plan
Annual
Report**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the Sussex County Council approves the (*Annual Comprehensive Plan*) Report to the Governor's Advisory Council on Planning for the 2020 to 2021 period.

Motion Adopted: 5 Yeas.

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

**Old
Business/
CZ 1926**

Under Old Business, the Council considered Change of Zone No. 1926 filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community).

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2021 at which time action was deferred. On May 13, 2021, the Commission recommended approval contingent on the following: Condition No. 15 of Change of Zone No. 1538 (Ordinance No. 1700) should be amended to state as follows:

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.**

(continued) **The County Council held a Public Hearing on this application on June 15, 2021 at which time action was deferred.**

**M 270 21
Amend
Condition
15/
CZ 1926** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition No. 15 for Change of Zone No. 1538 (Ordinance No. 1700) by deleting it in its entirety and inserting the following amended Condition No. 15, as follows:**

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC's Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**
 - ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.**
 - iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.**
 - g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.**
 - h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.**
 - i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.**

**M 270 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2786 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CZ 1538 (ORDINANCE 1700) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1926) filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community), with the following amended Condition No. 15 as follows:

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC’s Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926
(continued)**

- ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.
- iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.
- g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.
- h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.
- i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 272 21
Council-
manic
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give \$12,913 (\$8,913 from Mr. Schaeffer's Councilmanic Grant Account, \$1,500 from Mrs. Green's Councilmanic Grant Account and \$2,500 from Mr. Rieley's Councilmanic Grant Account) to the Town of Ellendale for park playground renovations.

Motion Adopted: 5 Yeas.

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

**M 273 21
Council-
manic
Grant**

*** A Motion was made by Mrs. Green, seconded by Mr. Rieley, to give \$5,000 ~~\$2,500~~ from Mrs. Green's Councilmanic Grant Account to Little League Baseball, Inc. for Woodbridge Little League field upgrades.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
7-Eleven
Bridgeville**

A Public Hearing was held on the Proposed 7-Eleven Bridgeville Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). John Ashman, Director of Utility Planning & Design, reported that

**Extension
Public
Hearing/
7-Eleven
Bridgeville
Extension
(continued)**

the proposed expansion will include several parcels in the Bridgeville Expansion Area. The Engineering Department received a request from Becker Morgan Group on behalf of their client, PTV 1081, LLC, the owners/developers of a project known as 7-Eleven Bridgeville for Parcel Nos. 131-19.00-7.00 and 8.02. The project is for a proposed convenience store and service station. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 274 21
Adopt
R 012 21**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 012 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCELS 131-19-7.00 & 8.02 ON THE WEST SIDE OF SUSSEX HIGHWAY; THE PARCELS ARE LOCATED IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY, DELAWARE" (7-ELEVEN BRIDGEVILLE).

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Peninsula
Square
Extension**

A Public Hearing was held on the Proposed Peninsula Square Expansion of the Sussex County Unified Sanitary Sewer District. John Ashman, Director of Utility Planning & Design, reported that the Engineering Department received a request from Duffield Associates, LLC on behalf of their client, Four Diamonds Development & Consulting, LLC, the owners/developers of a project known as Peninsula Square on Parcel No. 234-23.00-115.00. The project is for a proposed hotel, gas station, retail and office space. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 275 21
Adopt
R 013 21**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 013 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCEL 234-23.00-115.00 ON THE NORTH SIDE OF JOHN J. WILLIAMS HIGHWAY (ROUTE 24); THE PARCEL IS LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE

M 275 21 **RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY,**
(continued) **DELAWARE” (PENINSULA SQUARE).**

Motion Adopted: 4 Yeas, 1 Abstention.

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

Public
Hearing/
Cardinal
Grove
Extension

A Public Hearing was held on the Proposed Cardinal Grove Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). John Ashman, Director of Utility Planning and Design, reported that the Engineering Department received a request from Solutions IPEM on behalf of their client, 18898 Beaver Dam Road, LLC, the owners/developers of a project known as Cardinal Grove on Parcel No. 234-2.00-1.10. The project is proposed for 98 units. The expansion would also include Parcel 234-2.00-25.01 as requested by the parcel owner, Linda D. Beebe. The project will be responsible for system connection charges in place at the time of connection.

M 276 21
Adopt
R 014 21

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 014 21 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCELS 234-2.00-1.10 & 25.01 ON THE BOTH SIDES OF BEAVER DAM ROAD; THE PARCELS ARE LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (CARDINAL GROVE).

Motion Adopted: 5 Yeas.

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

Grant
Requests

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

M 277 21
Council-
manic
Grant

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$6,500 (\$4,300 from Mr. Hudson’s Councilmanic Grant Account and \$2,200 from Mr. Rieley’s Councilmanic Grant Account) to the Nanticoke Indian Association, Inc. for the Annual Nanticoke Indian PowWow and Cultural Awareness Program.

Motion Adopted: 5 Yeas.

**M 282 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 283 21
Countywide
Youth
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$3,600 from Countywide Youth Grants to the Harry K. Foundation for the Halt Child Hunger Initiative.

Motion Adopted: 5 Yeas.

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

**M 284 21
Countywide
Youth
Grant**

A Motion was made by Mr. Hudson to give \$1,500 from Countywide Youth Grants to the Girl Scouts of the Chesapeake Bay Council, Inc. for girl scouting for Latina girls.

Mr. Vincent handed the gavel over to Mr. Rieley.

Mr. Vincent seconded the Motion.

Mr. Rieley handed the gavel over to Mr. Vincent.

Motion Adopted: 5 Yeas.

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

**M 285 21
Countywide
Youth
Grant/
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$6,900 (\$3,900 from Countywide Youth Grants, \$2,000 from Mr. Rieley's Councilmanic Grant Account, and \$1,000 from Mr. Hudson's Councilmanic Grant Account) to the Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for wishes for children with critical illnesses.

Motion Adopted: 5 Yeas.

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

**M 286 21
Go Into
Executive
Session**

At 10:47 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications.

**M 286 21
(continued)**

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 11:00 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications. The Executive Session concluded at 11:54 a.m.

**M 287 21
Reconvene
Regular
Session**

At 11:56 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

E/S Action

There was no action on Executive Session matters.

**M 288 21
Recess**

At 11:56 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to recess until 1:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 289 21
Reconvene**

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

Motion Adopted: 5 Yeas.

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

Rules

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

**Public
Hearing/
CZ 1942**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN

**Public
Hearing/
CZ 1942
(continued)**

PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC (Twin Cedars, LLC) (Tax I.D. No. 533-11.00-42.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On June 10, 2021, the Commission recommended approval with the following conditions:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.**
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**

**Public
Hearing/
CZ 1942
(continued)**

- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- l. 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.**
- m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the front entrance as well as the sides of the property (excluding the rear open space), as presented during the Public Hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
- n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
- o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
- q. 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 May 13 and June 10, 2021.)

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

The Council found that David Hutt, Attorney, was present on behalf of the Applicant along with Henry Mast, Principal of Bay Developers, LLC; Phil Tolliver of Morris & Ritchie Associates; Greg Sauter of Geo-Technology Associates; and Joe Caloggero of The Traffic Group. They provided a history of the project and stated that this application is for the redesign of a previously approved RPC and commercial project; that, previously, the Council approved a RPC and a commercial project for this parcel of land (Change of Zone Nos. 1668 and 1669) and that the project was not built and the RPC designation lapsed; that a new application was filed under Change of Zone No. 1909 but because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application; that the current application is exactly the same as the terminated application Change of Zone No. 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 65.32 acres situated along Zion Church Road; that the property is

**Public
Hearing/
CZ 1942
(continued)**

presently unimproved; that there are other residential communities in the area as well as commercial uses and zonings; that the majority of the zoning on Zion Church Road is GR and MR with some C-1; that this application seeks to rezone the entire property to GR with a RPC overlay; that the Application proposes to leave most of the forested area undisturbed and designate it as open space (20.5 acres to remain forested); that the design allows for all the residential areas to be clustered so that each lot would back up to open space or amenities; that the entrance to this community would be off of Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the gross density would be 4.31 units per acre; that the property is located within the Growth Area according to the Comprehensive Plan; that this project is located in the Investment Level 3 Area according to the Strategies for State Policies and Spending; that where an existing buffer does not exist, the Developer will install a landscaped buffer; that sidewalks will be installed on both sides of the street; that the proposed amenities include a pool, patio area, clubhouse, tot lot area and a walking trail; that County Code requires 508 parking spaces and they are planning 563 spaces; that there will be a Property Owners Association created to manage and govern the common areas with the community; that DeDOT required a Traffic Impact Study (TIS) which has been completed; that the DeDOT TIS review letter contained three requirements including entrance requirements and a contribution by the Developer for a traffic signal on Zion Church Road; that with this project design, there will be more separation between this project and the RV park and any hunting/shooting activities; that the proposed project provides other housing options in the area, all within the same unified project, and is a superior design when compared to the application made in 2010; that there are no regulated wetlands on the site; that there are predominant wet areas and, therefore, the Applicant plans to stay out of the rear area which will remain wooded; that they have met with DNREC regarding the tax ditch right-of-way; that the application is in compliance with the Comprehensive Plan and the Zoning Code; that they are requesting that Condition M recommended by the Planning and Zoning Commission be modified; that the Planning and Zoning Commission liked the proposed berm which varies in height and moves in and out along the property frontage and the Commission asked that it be extended down the sides of the property; that while it is possible to incorporate this along the frontage on Zion Church Road, there are some drainage ditches that exist along the perimeter of the property that would be difficult to integrate into that enhanced landscaping berming; that the proposed Condition M is in conflict with Condition I and that they propose Condition M to be amended to read as follows: The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all "Limits of Disturbance" within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the Public Hearing, and as described in Pages 15, 16, and 17 of the Applicant's project notebook.

(continued) **There were no public comments.**

M 290 21 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action**
Defer **on Change of Zone No. 1942 filed on behalf of Bay Developers, LLC (Twin**
Action on **Cedars, LLC).**
CZ 1942

Motion Adopted: 5 Yeas.

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

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
CZ 1922 **SUSSEX COUNTY FROM A B-1 (NEIGHBORHOOD BUSINESS**
 DISTRICT), C-1 (GENERAL COMMERCIAL DISTRICT) AND CR-1
 (COMMERCIAL RESIDENTIAL DISTRICT) TO A HR-RPC HIGH
 DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED
 COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND
 BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,
 CONTAINING 54.38 ACRES, MORE OR LESS” (Change of Zone No.
 1922) filed on behalf of Baywood, LLC (Tax I.D. No. 234-23.00-270.00,
 273.01, 273.02, 273.03, & 273.05) (911 Address: 32147 Long Neck Road,
 Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On May 22, 2021, the Commission recommended approval with the following conditions:

- A. The maximum number of residential units shall be 514.**
- B. All entrances, intersections, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by central sewer through the Inland Bays Preservation Company and Sussex County. 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. Construction, material deliveries and site work shall only occur on the property between 7:30 a.m. and 7:00 p.m. Monday through Friday. No Saturday or Sunday hours shall be permitted. A 24 inch by 36 inch “NOTICE” sign confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- G. Street naming and addressing shall be subject to the review and**

**Public
Hearing/
CZ 1922
(continued)**

- approval of the Sussex County Mapping and Addressing Department.
- H. 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.**
 - I. 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.**
 - J. The Applicant shall coordinate with the Indian River School District to establish a school bus stop area which shall be shown on the Final Site Plan if required by the District.**
 - K. The Central Recreational Complex, including the community clubhouse, indoor and outdoor swimming pools, shall be completed prior to the issuance of the Certificate of Occupancy for the 161st multi-family unit.**
 - L. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - M. Lighted signs shall be permitted at each of the four entrances to the development. Those signs shall not exceed 32 square feet in size per side.**
 - N. As proffered by the Applicant, this HR-RPC rezoning was sought for the specific purpose of development of a 514-unit multi-family development depicted on the site plan submitted with this application. In the event the RPC is not developed and is declared null and void pursuant to Section 99-9B or 99-40A of the Sussex County Code, then Sussex County may initiate the rezoning process and schedule public hearings to consider whether to revert this land (currently Tax Map Parcel 2-34-23.00-270.00, 273.01, 273.02, 270.03 and 270.05) back to the zoning classification of the land in existence immediately prior to this HR-RPC rezoning.**
 - O. The Developer shall coordinate with DelDOT for safe and clearly marked pedestrian crossings at the intersection of Long Neck Road and School Lane for the two sections of this development. The Developer shall clearly indicate the means of safe crossing on the Final Site Plan and no apartments shall be constructed on the south side of Long Neck Road until those safety measures are installed.**
 - P. This recommendation is contingent upon an amendment to the Future Land Use Map in the Sussex County Comprehensive Plan revising the designation of a portion of the property from “Commercial Area” to the “Coastal Area” which otherwise surrounds it.**
 - Q. 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 May 13 and 22, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application and reported that 20 letters have been received in opposition to the application.

**Public
Hearing/
CZ 1922
(continued)**

Jim Fuqua, Attorney, and Robert Tunnell III were present on behalf of the Applicant with Betty Tustin of The Traffic Group, and Jason Palkewicz of Solutions IPEM. Mr. Fuqua reported that the application is to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to a High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental/apartment community (Baywood Gardens); that the parcel on the north side of Long Neck Road contains 38.17 acres; that the parcel on the south side of Long Neck Road contains 16.21 acres; that 354 units would be on the north side and 160 units would be on the south side; that HR zoning permits a maximum density of 12 units per acre and the 514 units proposed would result in a density of 9.45 units per acre; and that no commercial uses or buildings are proposed.

Mr. Fuqua reviewed other uses in the area and the history of the Tunnell family's developments in the Long Neck Area over the past 60 years. He stated that a similar application (planned and approved) was filed by the Tunnell's in 2010; however, the development did not proceed due to the recession; that this application addresses a much needed housing type which is rental housing; that the properties are located in Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that this project will be a more affordable alternative to home ownership, providing more affordable housing to workers in eastern Sussex County; that the property is located in the Commercial Area and the Coastal Area according to the Comprehensive Plan, which are both Growth Areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal Area; that the project would be served by central water and sewer; that stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the site; that DelDOT required a Traffic Impact Study (TIS) and there were two studies completed, one for the north parcel and one for the south parcel; that in accordance with the TIS, the Applicant will be required to make certain roadway and traffic signal improvements and to dedicate a permanent easement along the site frontage for a shared path; that the entrance to the northern portion of the site will be on Long Neck Road across from Bayshore Drive with a secondary entrance from Greens Way; that the entrance to the southern portion of the site will be on Long Neck Road directly across from Greens Way with a secondary entrance from School Lane; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings will contain 40 units each and one building will have 34 units; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be 210 two-bedroom units and 304 three-bedroom units; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51 % of the development; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball and bocce courts, etc.; that the south parcel

**Public
Hearing/
CZ 1922
(continued)**

will have two open space gathering areas with playgrounds; that 602 parking spaces are required per County Code for the north parcel and 791 spaces will be provided; that 287 parking spaces are required per County Code for the south parcel and 320 are provided; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that buffers and privacy fencing will be provided; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane which will allow pedestrians to cross safely between the north and south parcels; that the application will be in character with the area; and that the application is consistent with the Comprehensive Plan and the Zoning Code.

Mr. Fuqua noted that the Applicant voluntarily offered Condition N that if the approved RPC is voided for any reason listed in the Code, the underlying HR-1 zoning would revert back to the zoning in place on the date of approval.

Mr. Fuqua presented a request for a modification of Condition F regarding construction hours. He stated that the Applicant has no objection, in general, to Condition F except for one point: the Condition prohibits any Saturday construction hours. The Applicant is requesting that Condition F be modified so that the prohibition on Saturday hours would only be in effect from May 15 to September 15th (and could be limited to 8:00 a.m. to 5:00 p.m.).

Mr. Fuqua commented on some of the letters in the record relating to traffic, and fire and police needs. He stated that, based on the road and intersection improvements that DelDOT is requiring of the Applicant per the two Traffic Impact Studies, the Development's impact will be mitigated and the long term traffic function in the area will ultimately be improved once the improvements are completed.

Mr. Fuqua stated that the Tunnell Companies has its own safety division and they will be responding to a lot of the lesser involved issues instead of the State Police. He also noted a letter in the record from the Indian River Fire Company thanking the Tunnell Companies for their pledge of \$150,000 toward the purchase of equipment, which is ideally suited for situations involving multi-story condominium and apartment buildings.

Council questioned if there would be a sidewalk between Banks Road and Greens Way, referenced the proposal to widen the current pathway to 10 feet which would be made a part of the multi-modal pathway, and questioned if this should be included in the proposed conditions. Council also commented on traffic burden, adequate Level of Service, the cumulative effect of traffic, the schedule for the four-lane road development, and the need for a municipal police force in the area.

**Public
Hearing/
CZ 1922
(continued)**

In response to questions, the Applicant's representatives stated that this project will result in approximately 2,800 daily trips (which is spread out through the day); and that it is not peak hour traffic. Additionally, DelDOT has a significant number of projects on Route 24, mostly to the east; however, these projects will have a ripple effect and will improve traffic flow in this project area also.

Mr. Rieley requested a copy of the traffic schematic.

Public comments were heard.

There were no public comments in support of the application.

Paul Greenblath spoke in opposition to the proposed project and expressed concern about the additional number of vehicles this project will bring to the area; that traffic in Long Neck is already a bottleneck; that if they build 540 apartments, there will be 2,000 more cars; that the number of accidents will increase; that the area is over-crowded now; and that the County needs to put the brakes on development.

John Dill (representing the Bayshore Townhomes/Condo Owners Association) stated that he was not speaking in favor of nor against the application. He questioned what is actually going to happen at the intersection across from Bayshore Drive and Baywood Gardens – is it just going to be an intersection or will there be a traffic signal there; that they question how vehicles will enter and exit Bayshore Drive; that there is concern about vehicles taking a shortcut through their development; that children's safety is a concern; that he questions if there will be sidewalks on their side of the road to go to Beebe Medical Center; and he questions how the project will affect stormwater management in Bayshore.

Jean Bartlett (representing the Bayshore Condo Association) questioned the impact the apartment buildings will have on the schools and stated that she does not think the area will support 500 more people; that there are not enough jobs for the additional people; that she questions what the 20 foot buffers will look like between Bayshore and the Baywood Gardens apartment buildings that are proposed; and that they do not want construction to take place on Saturdays or Sundays, not even in the winter.

Joyce Jason stated that changing the zoning will set a precedent; that no additional development is needed; that emergency response is a concern; that traffic is a bottleneck; that there is a lengthy line-up of school traffic on School Street to Long Neck Road; that a State Police sub-station is needed in the area; that speed limits need to be enforced; and that more streetlights are needed in the area.

Eul Lee stated that there are no plans for DelDOT to dualize up to Love Creek Bridge on Route 24 until the Year 2045, so she does not know if DelDOT plans to dualize up to the location of the proposed project. Ms.

**Public
Hearing/
CZ 1922
(continued)**

Lee questioned the location of the amenities in the proposed project being located all on one side and she stated that the residents of the southern site would have to walk a total of .4 miles including crossing the road; that the area does not have affordable options and she questions what the rental rates will be for this project. Ms. Lee stated that she questions if Route 24 can handle the additional 2,800 daily trips generated by the Baywood Gardens project and asked Council to look at the cumulative impacts on the area.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 291 21
Defer
Action on
CZ 1922**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to defer action on Change of Zone No. 1922 filed on behalf of Baywood, LLC.

Motion Adopted: 5 Yeas.

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

**M 292 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at 3:49 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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