

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 16, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 16, 2024, at 1:00 p.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
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 365 24
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the agenda as presented.

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 25, 2024, were approved by consent.

Correspondence

Mr. Moore reported that correspondence was received from Southern Delaware Therapeutic Riding and Parkinson's Education and Support Group of Sussex County thanking Council for their donation.

**Public
Comments**

Public comments were heard.

Mr. Keith Parsell spoke about the Wolfe Runne project.

Retirement

Denise Burns and Thomas Jefferson, Jr. were recognized for their upcoming retirement.

**Adminis-
trator's
Report**

Mrs. Jennings read the following information for the Administrator's Report:

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: East Gate – Phase 1

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

**(Construction Record) effective June 17th, Headwater Cove – Phase 5
(Construction Record) effective June 20th, Peninsula Lakes – Phase 14
(Construction Record) effective June 21st, and Heritage Shores – Villas
at Bridgeville – Phase 5C (Construction Record) effective June 25th.**

2. Betty Littleton

It is with great sadness that we inform you that pensioner, Betty Littleton passed away on Monday, June 24, 2024. Ms. Littleton began her career with Sussex County in 1995 where she worked until September 2011 for a total of 16 years of service. Her last position with the County was Utility Construction Technician I. We would like to extend our condolences to the Littleton family.

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

**Federal
Payment in
Lieu of
Taxes**

Andrea Wall, Manager of Accounting reported that a check in the amount of \$38,898.00 has been received from the United States Department of Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2023. The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. This check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose. Mrs. Wall advised that the recommendation is to allocate the funds in the same percentage as other County tax collections, as the County has done in the past.

**M 366 24
Approve
Federal
Payment**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved that the Sussex County Council approve the Accounting Department's recommended distribution of the Refuge Revenue Sharing Funds, as follows: Milford School District - \$7,549.88, Cape Henlopen School District - \$24,455.00; Sussex Technical School District - \$3,471.17; Sussex County - \$3,062.84; and Sussex County Libraries - \$359.11.

Motion Adopted: 5 Yeas

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

**Wolfe
Runne**

Hans Medlarz, County Engineer, Ret. presented a recommendation to reject all bids for Wolfe Runne, project S20-13 for Council's consideration.

M 367 24 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved, based upon the recommendation of the Sussex County Engineering and Finance Departments, that bids for contract S20-13, Wolfe Runne sewer expansion be rejected.**
Approve
Rejection of
Bids/Wolfe
Runne

Motion Adopted: 5 Yeas

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

IBRWF **Hans Medlarz, County Engineer, Ret. presented engineer of record**
Phase 2 designation for the IBRWF phase 2 project, selection of the IBRWF phase 2
project/ project implementation method and GHD, Inc. – amendment 26 for
Amendment Council’s consideration.
No. 26

M 368 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved**
Engineer of based upon the recommendation of the Sussex County Engineering
Record Department, that Council approve the reaffirmation of GHD, Inc., of Bowie,
Designation MD, as “Engineer of Record” for the County’s wastewater treatment process
related projects at all facilities, extending the existing base agreement for an
additional five-year period through June 30, 2029.

Motion Adopted: 5 Yeas

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

M 369 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved**
Selection of based upon the recommendation of the Sussex County Finance &
IBRWF Engineering Departments, that County Council approve a staged
Method construction implementation process of the Inland Bays RTF phase 2 project
with M.F. Ronca & Sons, Inc. and B.W. Electric, Inc. under a series of change
orders based on critical path implementation.

Motion Adopted: 5 Yeas

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

M 370 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, be it moved**
Approve based upon the recommendation of the Sussex County Engineering
Amendment Department, that Amendment No. 26 to the base engineering contract with
26 GHD, Inc. be approved in the amount not to exceed \$5,000,000.00 for
engineering services associated with the Inland Bays phase 2 project.

Motion Adopted: 5 Yeas

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

**SCWRF & RBWTP/
CO No. 35** Hans Medlarz, County Engineer, Ret. presented change order 35, general construction for South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP capital improvement program, phase 2 for Council's consideration.

**M 371 24
Approve CO
No. 35/
SCWRF &
RBWTP** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 35 for contract 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 amount by \$121,235.07.

Motion Adopted: 5 Yeas

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

**Delivery of
Seed &
Chemical** Hans Medlarz, County Engineer, Ret. presented a motion clarification for delivery of seed and chemicals for Council's consideration.

**M 372 24
Approve
Modified
Schedule** A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department, that Council approve this modified motion of award to Growmark FS, LLC for bid schedules A & B in the combined annual, not to exceed amount of \$420,845.50 for calendar years 2023 and 2024.

Motion Adopted: 4 Yeas, 1 Nay

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

**Starlight
Meadows** Mark Parker, Assistant County Engineer presented a substantial completion and balancing change order for Starlight Meadows Road Improvements, project T24-07 for Council's consideration.

**M 373 24
Approve
Substantial
Completion** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that substantial completion be granted for the Starlight

**& Balancing
CO Meadows Road Improvements project T24-07, and that the final balancing change order be approved reflecting a project credit amount of \$16,459.22.**

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 Council's consideration.

**M 374 24 A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,000
Off Street (\$1,000 from Mr. Hudson's Councilmanic Grant Account) to Off Street
Sports Sports Performance, Inc. for their off street sports performance program.**

**Performan-
ce, Inc.**

Motion Adopted: 5 Yeas

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

**M 375 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$2,600
Harry K (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account, \$500 from Mr.
Foundation Hudson Councilmanic Grant Account, \$500 from Mr. Rieley's Councilmanic Grant Account, \$100 from Mr. Vincent's Councilmanic Grant Account and \$500 from Mrs. Green's Councilmanic Grant Account) to Harry K Foundation for their Desert Oasis Feeding program.**

Motion Adopted: 5 Yeas

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

**M 376 24 A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000
Mispillion (\$500 from Mr. Schaeffer's Councilmanic Grant Account and \$500 from
Performan- Mrs. Green's Councilmanic Grant Account) to Mispillion Performance
ce Series Series for their concert series.**

Motion Adopted: 5 Yeas

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

**M 377 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$1,000
(\$200 from all Members Councilmanic Grant Accounts) to Autism Delaware, Inc. for their Snowflake Soiree event.**

Autism Delaware, Inc. **Motion Adopted: 5 Yeas**
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

M 378 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$3,000**
Town of Delmar **(\$3,000 from Mr. Vincent’s Councilmanic Grant Account) to the Town of Delmar for their State Street park shade project.**

Motion Adopted: 5 Yeas
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

M 379 24 **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000**
Chamber of Commerce for Greater Milford, Inc. **(\$1,000 from Mrs. Green’s Councilmanic Grant Account) to the Chamber of Commerce for Greater Milford, Inc. for their Riverwalk Freedom festival.**

Motion Adopted: 5 Yeas
Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea

Proposed Ordinance Introductions **Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DIESEL MECHANIC, PARTS SHOP, AND TRUCK PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.46 ACRES, MORE OR LESS” filed on behalf of BCB Management, LLC.**

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS” filed on behalf of Delaware Electric Cooperative.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ON-PREMISE ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO

Proposed

Ordinance Introductions **HUNDRED, SUSSEX COUNTY, CONTAINING 19.30 ACRES, MORE OR LESS” filed on behalf of High Tide Church, Inc.**

(continued) **Mr. Rieley 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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 3.080 ACRES, MORE OR LESS” filed on behalf of ACR Auto Center, LLC.**

CC Member Comments **There were no Council Member comments.**

Public Hearing/ Jefferson Lodge Annexation into SCUSSD **A Public Hearing was held for the Jefferson Lodge Annexation of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).**

John Ashman, Director of Utility Planning & Design reported that County Council granted approval to prepare and post notices for the public hearing on May 14, 2024, for the expansion. The Engineering Department received a request from Baird, Mandalas, Brockstedt & Federico, LLC on behalf of their client Jefferson Lodge #15 (Masonic Hall of Lewes DE) in connection with its initiative to relocate to parcel 334-4.00-28.02 on Sweetbriar Road. The project is proposed as a new Masonic Lodge. The Engineering Department requested to include the adjacent County owned parcel 334-4.00-28.01. The project will be responsible for System Connection charges of \$7,700.00 per EDU based on current rates. Public hearing notices were posted on July 3rd, placed on the County website and advertised the weeks of July 3rd and 10th. To date, there has been no correspondence received in support or in opposition to this proposed annexation.

There were no public comments.

The Public Hearing and public record were closed.

M 380 24 Adopt Resolution No. R 013 24/ Jefferson Lodge Annexation into SCUSSD **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Resolution No. R 013 24 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE THE JEFFERSON LODGE ON THE WEST SIDE OF SWEETBRIAR ROAD THE PARCEL IS LOCATED IN THE LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.**

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/
Bayard
Commons**

A Public Hearing was held for the Bayard Commons Annexation of the Sussex County Unified Sanitary Sewer District (Miller Creek Area).

John Ashman, Director of Utility Planning & Design reported that County Council granted approval to prepare and post notices for the public hearing on May 14, 2024, for the proposed expansion. The Engineering Department received a request from George, Miles & Buhr, LLC on behalf of their client Bayard Commons, LLC, the owners/developers of a project known as Bayard Commons for parcel 134-19.00-22.00.

The proposed site will consist of a 3,000 square feet strip mall on 3.00 acres within the B-2 Zoning District. The project will be responsible for System Connection charges in place at the time. Public Hearing notices were posted on July 3rd, placed on the County website and advertised the week of July 3rd and July 10th. To date, there has been no correspondence received in favor or in opposition to this proposed annexation.

There were no public comments.

The Public Hearing and public record were closed.

**M 381 24
Adopt
Resolution
No. R 014 24/
Bayard
Commons
Annexation
into SCUSD**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Resolution No. R 014 24 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE PARCEL 134-19.00-22.00 ON BOTH SIDES OF DOUBLE BRIDGES ROAD LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

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/
Marvel
Minor
Subdivision
Annexation
into
SCUSSD**

A Public Hearing was held for the Marvel Minor Subdivision Annexation of the Sussex County Unified Sanitary Sewer District (Holts Landing Area).

John Ashman, Director of Utility Planning & Design reported that County Council granted approval to prepare and post notices for the public hearing on June 11, 2024, for the proposed expansion. The Engineering Department received a request from Foxlane Homes, the developers of a project to be known as Marvel Minor Subdivision. The request include parcels 134-7.00-162.00 & 162.01 and is proposed at 3 lots. The project will be responsible for System Connection charges in place at the time of connection. Public Hearing notices were posted on July 3rd and placed on the County website. To date,

there has been no correspondence received in support or opposition of the proposed annexation.

There were no public comments.

The Public Hearing and public record were closed.

**M 382 24
Adopt
Resolution
No. R 015 24/
Marvel
Minor
Subdivision
Annexation
into
SCUSSD** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Resolution No. R 015 24 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) HOLTS LANDING AREA, TO INCLUDE THE PROPOSED THE MARVEL MINOR SUBDIVISION, LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.**

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 and procedures for Public Hearings.**

**Public
Hearing/
CU2427** **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 LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.51 ACRES, MORE OR LESS” (property lying at the end of Alma’s Way, approximately 0.25 mile east of Wil King Road [S.C.R. 288]) (911 Address: N/A) (Tax Map Parcel: 234-6.00-66.00) filed on behalf of Joshua L. Wharton.**

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 26, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 12 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Mr. Joshua Wharton, the Applicant, spoke on behalf of the application; that he operates a landscape business; that this is where he stores his trucks; that the main business is in Rehoboth at Wharton’s garden center & landscaping; that he does not enough room on that property to keep his trucks; that his employees will come to the property to get their trucks, load it and leave; that there are materials stored on the site such as pavers and deliveries are made to this location; that all of the retail takes

place at the Rehoboth location.

There were no public comments.

The Public Hearing and public record were closed.

**M 383 24
Adopt
Ordinance
No. 3028/
CU2427**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 3028 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.51 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. This use is appropriate within this Area.**
- 2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.**
- 3. The use will not adversely affect area roadways or neighboring properties.**
- 4. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 5. There was no opposition to this application.**
- 6. This recommendation is subject to the following conditions:**
 - a. This use shall be limited to a landscaping business.**
 - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
 - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
 - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
 - e. The hours of operation shall be limited to 7:00 a.m. through 5:00 p.m., Monday through Friday, and from 7:00 a.m. until 3:00 p.m. on Saturdays. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.**
 - f. Any areas to be used for the storage of dirt, topsoil, mulch, stone**

**M 383 24
Adopt
Ordinance
No. 3028/
CU2427
(continued)**

- or similar shall be shown on the Final Site Plan with the type of containment used to keep them in place.
- g. Any lighting on the site shall be screened so that it does not shine on neighboring properties or roadways.**
 - h. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
 - i. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
 - j. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
 - k. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - l. 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: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2418**

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 MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS” (property lying on the south side of John J. Williams Highway [Rt. 24] approximately 200 ft. west of Layton Davis Road [S.C.R. 312A]) (911 Address: 27073 John J. Williams Highway, Millsboro) (Tax Map Parcel: 234-29.00-53.00) filed on behalf of Nanticoke Indian Association.

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 1 recommended condition revision as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Mr. David Hutt, Esq., of Morris James, spoke on behalf of the Applicant, Nanticoke Indian Association; that Chief Avery Johnson and Mr. Mark Davidson, Principal Land Associate with Pennoni

**Public
Hearing/
CU2418
(continued)**

Associates were also present; in regard to the Conditional Use for the property at about 200 feet West of the intersection of Layton Davis Rd. and Route 24; that the property contains a little less than an acre about 9/10 of an acre and it will be reduced a little further as part of this process, should this be favorably acted upon by County Council as DelDOT is receiving a dedication of some additional right of way; that in 1929, Isaac and Vina Harmon conveyed the property to the Indian River School District for the descendants of the Nanticoke Tribe of Indians; that in 2006 the Indian River School District for the descendants of the Nanticoke Tribe of Indians conveyed the property to the Nanticoke Indian Association; that the deed has a possibility of reversion, what that means in the context of this property is that the property will revert to the Indian River School District in the event that the property ceases to be used by the Nanticoke Indian Association as a social or cultural center for the advancement of history, culture and tribal heritage of the Nanticoke Indians; that the cultural community center on that parcel houses the Tribal Affairs Office which provides programs and services that include a food bank, Community Center, community dinners, cultural arts and crafts lessons, native drum and dance lessons, educational programs, heritage and cultural activities, youth and senior programs, elder programs, healthcare services and mental health and domestic violence services; that the property is zoned AR-1 and in 1992 an Ordinance was passed by County Council Ordinance No. 859 as part of C/U1018 and that Conditional Use was for an Indian Center Tribal Office and meeting place; that in 2018, the Ordinance was amended by C/U2115, when County Council adopted Ordinance No. 2554 to allow for an electronic message center sign on the property to replace the prior sign that was destroyed by a car; that the Conditional Use and Ordinance is within the project book materials, and it had five conditions; that the application seeks to amend the first condition regarding the size of the building; that the zoning map shows a mixture of zoning classifications with areas of agricultural, residential and commercial all within a small distance of the property; that there are nine approved Conditional Uses within a mile of the property; that this property resides in a Level 2 area on the state strategies map and according to the state and the Office of State Planning Coordination, Level 2 areas of the state investments and policy should support and encourage a wide range of uses and densities, promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity and integrity; that this application certainly helps to support the community identity of Sussex County and particularly in this area of Sussex County; that there are no wetlands located on the property, water is provided by Tidewater Utilities, sanitary sewer is through an on-site wastewater disposal system; that the property is within a tier one level within the Sussex County Unified Sanitary Sewer District and the Sussex County Engineering Department indicated that there is capacity for the Cultural Community Center to become part of and connect it to county sewer if the easements are granted; that a SLER was filed with DelDOT who responded that pursuant to the terms of its Memorandum of Understanding with Sussex County, the traffic impact for the expansion of the Community Center would be negligible; that means that

**Public
Hearing/
CU2418
(continued)**

it anticipates less than 50 vehicle trips per hour and less than 500 vehicle trips per day; that there is a letter of no objection to recordation from DelDOT, State Fire Marshall approval and approval from the Sussex Conservation District and entrance approval from DelDOT; that this application is asking to amend the existing conditions in C/U1018; that the first condition says the conditional use shall be limited to a 20 foot by 50 foot addition to the existing structure; that when the Association acquired this property there was a 1,250 square foot 25 by 50 building on it and then there was an addition of 20 feet by 50 feet made to that which added another 1,000 square feet to this so that the building was allowed to be under that conditional use of 2,250 square feet; that the proposed addition involves additional structures on both sides with the combined square footage of those two parts of the building additions would be 2,613 square feet, bringing the total building to 4,859 square feet; that the request is to amend square footage of the building to 5,000 square feet; that the Planning Commission recommended that Condition No. 1 be deleted; that the Nanticoke Indian Association supports the recommendation; that the purpose of the addition is to double the size of the existing Community Center and allow it to accommodate new restrooms, an food bank, expanded food bank, flex space for children's area and classroom, additional meeting, arts and craft room and to extensively renovate the entire exterior with a new roof, new siding, etc.; that they added parking areas, walkways, native artwork, new lighting and landscaping for the property; that the support that this project has been received throughout, including financial support from the State Legislature and our federal government, there was support for a bond bill and funding through the bond bill, and signatures of many area residents for this Cultural Center; that this property meets the general purpose of the zoning ordinance, and specifically as it's a Conditional Use, Section 115-171, as it is a public Community Center use that is essential and desirable for the general convenience and welfare, orderly growth, prosperity and welfare of Sussex County.

There were no public comments.

The Public Hearing and public record were closed.

**M 384 24
Adopt
Ordinance
No. 3029/
CU2418**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 3029 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONS OF APPROVAL RELATING TO CONDITIONAL USE NO. 1018 TO MODIFY BUILDING SIZE LIMITATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.915 ACRE MORE OR LESS" for the reasons that includes removal of Condition No. 1 of CU1018 given by the Planning & Zoning Commission as follows:

1. Nanticoke Indian Association operates its Nanticoke Indian Cultural Community Center at the location. The center offers a variety of

**M 384 24
Adopt
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No. 3029/
CU2418
(continued)**

- services to the association and the community in general, including a food bank and Community Center, heritage and cultural activities.
2. This use was approved by C/U1018 in 1992, but with condition #1, which stated that it shall be limited to a 20 by 50-foot addition to the existing structure.
 3. The center exists in a building that is about 75 years old and has served the Association well, but an update in renovation of the building at its site is needed.
 4. The 75 years this building has been in use and in the 30 years since C/U1018 was approved, much has changed in this area since this county, for instance, there are now several businesses in the area and there are multiple different residential business and commercial zoning districts in the area. Also, DelDOT is now designated Route 24 as a major collector road it is also now in the coastal area under the county's Comprehensive Land Use Plan. Under all these circumstances, condition number one of C/U1018 is no longer necessary or appropriate.
 5. With the elimination of this condition, the Association will be able to renovate and expand its existing building to enable it to install new restrooms, new food bank, flex space for children's areas, classrooms, a new commercial kitchen, are renovated office and community computer workspace areas.
 6. DelDOT stated that the expansion of the building will have a negligible impact on traffic in the area.
 7. There was no opposition to this application and eight condition number one of C/U1018 should be deleted in its entirety. There is no need for a limitation on the building size, it will still be governed by the relevant parking, stormwater management access and set back requirements that will govern the site and the new building. Additionally, any new building will be subject to site plan review and approval by the Planning and Zoning Commission.

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/
CU2422**

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 TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM

**Public
Hearing/
CU2422
(continued)**

PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT, ETC., TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS” (property lying on south side of Seashore Highway [Rt. 18], approximately 0.83 mile northwest of State Forest Rd. [S.C.R.579]) (911 Address: 13418 Seashore Highway, Georgetown) (Tax Map Parcel: 231-6.00-24.02) filed on behalf of Garden Estates, Inc.

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 1 recommended condition revision as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Ms. Shannon Carmen Burton Esq., of Sergovic, Carmean, Weidman, McCartney, and Owens, spoke on behalf of the Applicant, in regards to an Ordinance to amend Condition No. 6 of existing C/U 1094, Ordinance No. 998 which is requesting to add two 9,000 square foot warehouses on a property in an AR-1 zoned parcel; that the property located at 13418 Seashore Hwy. Georgetown DE and is approximately 5 acres of land; that this property received a C/U in December of 1994 for retail and wholesale of nursery products, farm products, fertilizers, pots, gardening equipment, etc.; that the C/U approval was subject to six conditions, being the site plan was subject to review and approval by the Planning and Zoning Commission, all appropriate agency approvals and permits shall be submitted with the final site plan, all buildings shall be set back a minimum of 150 feet from the front property line, no parking shall be permitted within 40 feet of the right of way of Route 18, one sign not exceeding 32 square feet on both sides may be permitted and items for sales shall be limited to nursery stock, produce and farm products, fertilizer, pots and related gardening and landscaping equipment and items; that the applicant is seeking to add the warehouse and storage use as a permitted use; that the property is currently utilized by the applicants tenant plant retrievers for those purposes that are permitted under the existing conditional use; that there is currently a 1 story building located on the property surrounded by a large gravel lot used for display of items and materials to be sold; that the amendment to the existing C/U is to allow for the warehouse use that would enable the existing tenant as well as the applicant to expand operations to meet the needs of the expanding population in the county and to provide storage space for the tenant or third parties such as contractors to store equipment and materials onsite.

Mr. Tom Schrier, a registered landscaper spoke on behalf of the application; that the applicant is looking to construct two 9,000-square-foot warehouses for purposes of storage for the current tenant as well as third parties; that the warehouse will be placed in the rear of the property over top of existing impervious areas; that there will be approximately 60 feet between the

**Public
Hearing/
CU2422
(continued)**

warehouses; that the garage doors to the warehouses will be facing each other; that there will be appropriate access ways for the tenants as well as emergency vehicles.

Ms. Burton stated that the property is located in the AR-1 zoning district and adjoining parcels to the North-South, East-West are also zoned AR-1; that the purpose of the AR-1 zoning district is to provide for a full range of agricultural activities and to protect agricultural lands as one of the county's most valuable natural resources; that C/U allowed within AR-1 district are agricultural related industries, residential business, commercial or industrial uses, when the purposes of the chapter are more fully met by issuing the conditional use permit; that including the existing conditional use, there are 8 conditional uses that have been approved within a one mile radius of the property; that the 2018 Sussex County Comprehensive Plan update Future Land Use Map is along with adjoining parcels to the North-South and East-West; that low density area is a rural area where the county envisions a predominantly rural landscape where farming coexists with appropriate residential uses and permanently preserve prop. 30 in the comprehensive plan; that the primary uses envisioned in the low density areas include agricultural related activities and residential uses; that business development should be confined to businesses that address the needs of agricultural or residential uses; that the Comprehensive Plan provides that Industrial and Ag business uses that support or depend on agriculture, should be permitted, and the focus of retail and office uses in low density areas should be providing convenience goods and services to nearby residents; that the current use and the proposed warehouse use are for agricultural related activities that service residents and businesses nearby and throughout the county is appropriate and compatible with the goals of the Comprehensive Plan; that the proposed warehouse use will not have an adverse impact on the neighboring properties as the buildings will be located at the rear of the property with a mature buffer trees; that the use is of a public or semipublic character and is desirable for the general convenience and welfare of neighboring properties and uses in the area; that it will have no significant impact on traffic, DelDOT said that it was negligible and did not require or recommend that a traffic impact study be performed for the proposed use for the reasons presented.

There were no public comments.

The Public Hearing and public record were closed.

**M 385 24
Adopt
Ordinance
No. 3030/
CU2422**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 3030 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MODIFY CONDITIONAL USE NO. 1094 (ORDINANCE 998) TO ALLOW FOR THE ADDITION OF TWO WAREHOUSES, IN ADDITION TO THE RETAIL SALE OF WHOLESALE NURSERY PRODUCTS, FARM PRODUCTS, FERTILIZERS, POTS, GARDENING EQUIPMENT, ETC., TO BE

**M 385 24
Adopt
Ordinance
No. 3030/
CU2422
(continued)**

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS” for the reasons that includes modification of Condition No. 6 of CU1094 given by the Planning & Zoning Commission as follows:

- 1. Under C/U1094, a wholesale and retail facility for the sale of nursery products, is permitted to this location and has been utilized that way for years.**
- 2. This application seeks to add the ability to install warehousing in the form of two new warehouse buildings at the rear of the property. The current conditions of C/U 1094 do not permit warehousing.**
- 3. In the 30 years since C/U 1094 was approved, much has changed in this area. Sussex County, for instance, there are now several businesses in the area, including eight other conditional uses within one mile of the location. The addition of existing warehousing on this site is appropriate at this location.**
- 4. The applicant has stated that the warehousing may be used by the existing landscaping business or by third parties.**
- 5. DelDOT stated that expansion will have a negligible impact on traffic in the area.**
- 6. There was no opposition to this application.**
- 7. Condition number six of C/U 1094 should be amended to add warehousing as a permitted use. It will still be governed by the relevant parking, stormwater management access and set back requirements that will govern the site and the new building, as well as all agency approvals. Additionally, any new building will still be subject to site plan review and approval by the planning and zoning commission. There should not be any new office space within the warehouse, uses in the building shall be limited to storage and warehousing only.**

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/
CU2414**

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 CONTRACTOR OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES MORE OR LESS” (property lying on the east side of Millsboro Highway [Rt. 30], approximately 0.89 mile south

**Public
Hearing/
CU2414
(continued)**

of Laurel Road [Rt. 24]) (911 Address: 32605 Millsboro Highway, Millsboro) (Tax Map Parcel: 233-13.00-1.04) filed on behalf of Justice Boyz Properties, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on June 5, 2024. At the meeting of June 26, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 13 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Mr. Travis Justice, owner of Justice Boyz Properties, LLC., spoke on behalf of his application; that he submitted a Final Site Plan as requested by the Planning & Zoning Commission; that parking was added to the back of the property as requested by the buyer; that the oil reserve tank is noted on the site plan.

There were no public comments.

The Public Hearing and public record were closed.

**M 386 24
Adopt
Ordinance
No. 3031/
CU2414**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3031 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The site is located along Route 30, approximately a mile from its intersection with Route 24. This use is appropriate for this location.**
- 2. The Applicant has stated that the contractors using the site may include landscaping businesses. That is also an appropriate use at this location.**
- 3. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.**
- 4. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County. It is also a location along Route 30 that is convenient for small businesses.**
- 5. No parties appeared in opposition to the application, and the next-door neighbor appeared in favor of it.**
- 6. This recommendation is subject to the following conditions:**

**M 386 24
Adopt
Ordinance
No. 3031/
CU2414
(continued)**

- a. The project shall be used for a contractor’s office with storage. This may include a landscaping contractor. The office shall be located within the dwelling that currently exists on the site.
- b. There shall be no retail sales from the property.
- c. No vehicle repair or fueling operations shall be performed on site.
- d. There shall be no manufacturing on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
- e. Any areas to be used for the storage of dirt, topsoil, mulch, stone or similar items shall be shown on the Final Site Plan with the type of containment used to keep them in place.
- f. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- g. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
- h. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- i. The hours of operation shall be from 7:00 a.m. until 5:00 p.m., Monday through Friday, and between 8:00 a.m. and 12:00 p.m. on Saturdays. No Sunday hours are permitted.
- j. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. No parking shall be located within the site’s front-yard setbacks.
- k. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.
- l. Failure to comply with these conditions of approval may result in this Conditional Use becoming null and void.
- 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: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2463**

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 AN EVENT VENUE TO BE LOCATED ON A 5.0 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS” (property lying on the east side of Jestice Farm Road [S.C.R.

**Public
Hearing/
CU2463
(continued)**

449A], approximately 0.25 mile north of Laurel Road [Rt. 24]) (911 Address: 32099 Jestice Farm Road, Laurel) (Tax Map Parcel: 232-19.00-45.00 [p/o]) filed on behalf of Chickberry Farms Events, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on May 22, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the Application for the 6 reasons stated and subject to the 6 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Ms. Melinda Bonniwell, owner of Chickberry Farms, spoke on behalf of herself in regard to the application; that she has lived at Chickberry Farms her entire life and bought the business from the family in 2014; that there are not many people on her road so the traffic is limited; that they have signs showing people where to park; that they are approved by the Fire Marshall; that they have lighting around the building and in the areas that guests walk around; that reviews and recommendations that were given by clients were shown; that her family are the ones who work the events; that the family has five poultry houses that she also helps with along with this business; that the hours of operation are by appointment only in terms of scheduling events; that the Fire Marshall approved them for over 200 guests but they feel that 130 guests can fit in their venue comfortable; that noise complaints are limited as the closest neighbors are approximately ¼ acre away and they are all family; that they do have animals on the property such as goats; that they are running 4H programs during the week through the business in which they are teaching kids about agriculture, animals and completing projects that get submitted to the Delaware State Fair.

There were no public comments.

The Public Hearing and public record were closed.

**M 387 24
Adopt
Ordinance
No. 3032/
CU2463**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to Adopt Ordinance No. 3032 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.0 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The use will occur within a 140.12-acre parcel that is also used as a farm. Chickberry Farms has been used for a variety of events including children’s birthday parties, school trips, dances and**

**M 387 24
Adopt
Ordinance
No. 3032/
CU2463
(continued)**

- weddings for decades. This application simply seeks to confirm the long-standing use of the property with improvements proposed by the Applicants.
2. This use is an extension of ongoing agricultural use of the property and agricultural uses that occur on the surrounding farmland. The use can also be considered as “agritourism” that promotes the agricultural industry in Sussex County.
 3. The Applicant intends to hold events that include weddings, birthday parties, 4H events, educational evens, parties, and similar functions with limited hours.
 4. The site will have sufficient areas for parking.
 5. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.
 6. No parties appeared in opposition to the Application.
 7. This recommendation is subject to the following conditions:
 - a. The area shall be an events venue for weddings, benefits, 4H and educational events, dinners, festivals, parties, and similar activities.
 - b. The area set aside for conditional use, including all areas to be used for parking, shall be clearly shown on the Final Site Plan.
 - c. The consumption of alcoholic beverages shall be permitted during events on the site subject to the approval from the Delaware Office of the Alcoholic Beverage Control Commissioner.
 - d. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. The interior driveways and parking areas shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
 - e. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.
 - f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

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/
CU2431**

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 PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS”

**Public
Hearing/
CU2431
(continued)**

(property lying on the east side of Savannah Road [Rt. 9] at the intersection of Savannah Road [Rt. 9] and Quaker Road, approximately 0.33-mile northeast of Westcoats Road [Rt. 12]) (911 Address: 1510 Savannah Road, Lewes) (Tax Map Parcel: 335-12.06-10.00) filed on behalf of Play It Safe, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on May 22, 2024. At the meeting of June 5, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 12 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Council found that Ms. Mackenzie Peet, Esq., from the law firm of Saul Ewing, spoke on behalf of Dr. Mary Vaughn the applicant/owner of Play It Safe, LLC.; that they are seeking a conditional use of land in an AR-1 district for the operation of a professional office; that Dr. Vaughn is a licensed psychologist who holds a doctorate in clinical psychology, works with children, adolescents, adults, and families in various settings; that her practice focuses on difficulties related to depression, anxiety, relationship issues, anger problems, personality disorders, trauma, grief and behavioral difficulties; that Dr. Vaughn also provides psychological evaluations for the courts and offers services such as parent coordination, reunification, therapeutic visitation and custody evaluation; that in 2023, Dr. Vaughn submitted her application with the Planning & Zoning office along with a number of exhibits; that on May 10, 2024, the applicant filed its supplemental exhibit booklet, which included an updated Conditional Use plan that showed additional parking spaces in the rear yard; that on May 22, 2024, the Commission reviewed the application and at their meeting on June 5, 2024, the Commission recommended approval subject to 7 reasons and subject to 12 recommended conditions; that on July 5, 2024, Ms. Peet filed a supplemental exhibit packet including a parking exhibit, updated letter of no impact from DelDOT and site photograph; that the site is located at 1510 Savannah Rd., outside the City of Lewes, Tax Map Parcel No. 335-12.06-10.00; that 14 conditional uses have been sought within a one mile radius, 13 of them being approved, nine of those uses are office related, indicating a demand for offices in this area; that this suggests that the site is located in area experiencing growth and development, especially in terms of office space; that currently Dr. Vaughn is operating in an office space at 1518 Savannah Rd and she is in need of an upgraded space to better serve her clients and team; that currently her office serves approximately 1,000 patients and hopes to continue to support their existing and growing client base; that Dr. Vaughn's use is semipublic and character is consistent with other existing businesses in the area where office type and residential uses coexist along Savannah Rd.; that this use is certainly and can be consistent with zoning district and Future Land Use Map, and will offer the residents of Sussex County much needed psychology services; that Dr. Vaughn is proposing an office space in what was a residential home; that after that, it

**Public
Hearing/
CU2431
(continued)**

was a daycare business known as Child's Play; that this space has been improved and just received a Certificate of Occupancy on July 9, 2024; that copy of the CO was submitted into the record; that there has been some interest with neighbors about Dr. Vaughn's decision to proceed with construction prior to obtaining her use approvals; that Dr. Vaughn decided to proceed with construction all of which is permitted by Sussex County under a permit issued by the Building and Licensing department; that the decision was driven by limited alternate options for office space in the area and the termination of her lease this summer; that Dr. Vaughn has taken great care to design a building that blends in with residential care of the community; that the only exterior changes to the building will be primarily landscaping; that there is currently a violation that was issued by DelDOT on July 11, 2024; that access will be provided off of Quaker Road into the site and then exit only onto Savannah Road as dictated by DelDOT; that the parking spaces were labeled due to confusion; that there are 9 spaces in the front and 2 additional spaces in the back; that there is a required strip approximately 4 feet wide that has to be maintained; that the applicant laid clam shells that has encroached into an area; that to bring the property back into compliance, the clam shells have to be pulled back and a grass buffer strip has to be established; that it is scheduled for work this week; that DelDOT has requested a grass strip; that correspondence with Mr. Smith from DelDOT was submitted; that Mr. Smith confirmed that the clam shells have to be pulled back and the grass buffer strip needs to be established; that the applicant will be posting signs along the grass area if permitted by DelDOT to state no parking; that the recommended hours are 7:00 a.m. until 8:00 p.m. Monday through Friday and 8:00 a.m. until 4:00 p.m. on Saturdays; that the hours are consistent with Dr. Vaughn's current business and surrounding businesses; that the applicant has engaged with neighbors in regards to their concerns and maintains open communication; that a summary of the outreach efforts was provided into the record at the Commission hearing; that the letter was included along with a list of neighbors that it was mailed to and it welcomed any of them to reach out with questions or concerns; that primarily communication was with Mr. David Green, the immediate adjacent neighbor behind the property; that in July 2023, Ms. Peet met with Mr. Green and Dr. Vaughn on site; that on July 24, a plan was provided to Mr. Green and the application was shared with him on July 25, 2023; that an amended plan showing the spaces in the rear yard was provided on September 1, 2023 and the final plan was filed with the County on May 10 and posted to the docket on that day; that there is a tree dispute between Mr. Green's property that is documented which is not relevant to this current request; that the parties hope for resolution in the near future; that there were comments that Dr. Vaughn had not shared an outreach letter with all neighbors on Quaker Road; that the neighbors that were determined to be most impacted by the use were identified; that opposition letters do not oppose the business itself; that her client is willing to meet with neighbors and have an open dialogue; that the hours of operation will not create any excessive noise that differs from nearby uses; that the nearby

**Public
Hearing/
CU2431
(continued)**

backyard will be used for staff to enjoy their lunch on nice days and parking purposes; that the applicant proposes to keep the fence that is located between the site and Mr. Green's property and replace it between her property and Mr. Green's property if that becomes necessary; that positive responses were received from the Sussex Conservation District and State Fire Marshal approving the plan; that there is a request to amend Condition F; that Condition F concerns signage that the Commission put into a condition for signage to be placed along Savannah Road and Quaker Road in terms of parking and entrance requirements; that it is proposed to be clarified that the signage has to be permitted by DelDOT; that it is next to a public road; that Mr. Moore questioned if it would be ok with the client to add in Condition E that parking bumpers along any grass strip shall be placed if permitted by DelDOT; that Ms. Peet questioned what the actual barrier would look like and if it could be a vegetative buffer rather than concrete; that the project meets the site requirements for office use and addresses the high demand for psychology services and is consistent with this business like neighborhood district; that the building has been designed to blend in with the community and the applicant has taken steps to minimize traffic and parking concerns; that the applicant has consulted with DelDOT to provide more onsite parking than the prior use and to address any offsite issues; that the utilities are in place and hours of operation will not disrupt the neighborhood; that all necessary approvals from agencies have been obtained; that the DelDOT violation will be resolved; that for all of these reasons, the applicant seeks approval of the Conditional Use request.

Public comments were heard.

Mr. David Green spoke in opposition of the application; that he lives in the property that is adjacent to 1510 Savannah Road; that the fence separates the properties; that the site plan that was referenced today with the two parking spaces in the back he believes is not the plan approved by DelDOT; that the site plan that was approved by DelDOT was on 6/18/24; that it did not show two spots in the back; that it showed one along Quaker and one in the back; that during the PZ testimony, that was intentional so that there was not a second spot up against his fence; that during the PZ hearing, the parking spots were discussed during the meeting during minutes 45-50; that the plan dated June 18, 2024 was shown; that the neighbors are very concerned about safety, emergency vehicles being able to get in and out and noise; that the previous owner of the daycare business is still the owner of the property; that there is a vested interest since it become a busy business; that the residents are worried about cars backing in and out; that he has almost been hit by a vehicle; that there is a grandfather that brings this grandkids down the street which was submitted in the comments yesterday; that one of the things that DelDOT suggested during his discussions was to run vegetation; that the grass area is to remain as discussed; that DelDOT has suggested making some kind of barrier to help with the safety, traffic and noise issues; that Savannah Road is very busy; that in the testimony

**Public
Hearing/
CU2431
(continued)**

during the PZ hearing, Mr. Mears and Mr. Robertson stated that they have never seen three entrances for an AR home; that it was questioned and discussed where the three entrances were located.

Ms. Peet stated that the only difference between the two site plans presented is that the parking spots were labeled that was submitted July 5. As she previously stated, they sought clarification from DelDOT as there was confusion about where the entrance and parking spaces were located at the PZ Commission meeting. After that meeting, an update of no impact was issued by DelDOT based on the plan that was submitted. It was pointed out that one was an entrance, and one is an exit.

Mr. Green stated that the information from DelDOT states that the plan that shows the new parking was revised on June 20, 2024; two days after the letter of impact was issued; that the two spaces on the back are not part of the site plan.

It was discussed that there is one exit on Savannah Road and there is one entrance on Quaker Road.

Mr. Green stated that the white space between the edge of the road and the property line in the grass area is outside of the limit of disturbance; that he requested that the area have some type of vegetation or barrier so that cars are not using it to go in and out; that he requested that there be a certain number of parking spaces listed so that it does not grow.

Mr. Whitehouse explained that if this application is approved, it would still have to go through the Planning & Zoning Commission for final site plan approval. The applicant would then be required to comply with that site plan and any revisions would trigger further review.

Mr. Green questioned why the spaces in the front aren't being used rather than putting spaces in the back.

The Public Hearing and public record were closed.

**M 388 24
Defer
Action/
CU2431**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS" to be able to review the evidence received today.

Motion Adopted: 5 Yeas.

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

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

**M 389 24
Adjourn**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to adjourn at
3:23 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,

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

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