

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 24, 2018**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 24, 2018, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 403 18  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the agenda by deleting "Administrator's Report" and to approve the agenda, as amended.

**Motion Adopted: 5 Yeas.**

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

**Minutes**

The minutes of July 17, 2018, were approved by consent.

**Corre-  
spondence**

Mr. Moore read the following correspondence:

**DAVID T. WOODS, DEVELOPMENT DIRECTOR, AUTISM  
DELAWARE.**

**RE: Letter in appreciation of sponsorship of 2018 Blue Jean Ball.**

**Public  
Comments**

**Public Comments**

Dan Kramer commented on the availability of ordinances on the County's website.

Rich Borrasso, Sussex Alliance for Responsible Growth, commented on recent discussions held by Council regarding wetlands and buffers.

|  |   |
|--|---|
| <b>Public Comments (continued)</b>                                     | <b>Scott Walker stated that he is a candidate for the U.S. House of Representatives and is seeking office due to a number of issues in the State that he feels need addressing.</b>   |
| <b>Retirement/ Patricia L. Deptula</b>                                 | <b>Council recognized retiring Director of Special Projects Patricia L. Deptula. A Tribute and plaque were presented to Ms. Deptula in recognition of her 38 plus years of service to Sussex County.</b>  |
| <b>Sussex Sports Center Foundation</b>                                 | <b>Mr. Lawson discussed appointments to the Board of Directors of the Sussex Sports Center Foundation, Inc., noting that “Sandhill Fields” is the new name for the Sports Center. Mr. Lawson gave a brief update on the history of the project and work which is taking place by the Foundation, as well as on-site at Sandhill Fields. Foundation meetings have been attended regularly by Mr. Lawson, Councilman Burton, and Mrs. Jennings. Mr. Lawson advised that Sussex County will hold two positions on the 16-member Board.</b>   |
| <b>M 404 18 Appoint Board Members/ Sussex Sports Center Foundation</b> | <b>A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the appointment of Councilman Irwin G. Burton III and County Administrator Todd Lawson, with Finance Director Gina Jennings serving as an alternate, to the Board of Directors of the Sussex Sports Center Foundation, Inc., effective immediately.</b><br><b>Motion Adopted: 5 Yeas.</b><br><b>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</b>  |
| <b>Buffers and Density</b>   | <b>Mr. Lawson reported that Councilman Burton requested that discussion on matters relating to buffers and density be placed on the agenda in follow-up to the presentations which were heard by Council on July 17<sup>th</sup>. Councilman Burton stated he would like to move forward with drafting an ordinance for introduction relating to wetlands and density calculation. It was the consensus of Council that Mr. Lawson schedule a one-day workshop as soon as possible to bring everyone back together (Council, staff, and professionals/experts) to discuss buffers and density issues in greater detail.</b>   |
| <b>Draft Comp Plan Review</b>  | <b>Janelle Cornwell, Director of Planning and Zoning, discussed the 2018 Comprehensive Plan submitted to Council for review, which included items discussed throughout the workshop process. Since the Plan was provided to Council, there have been minor updates to the Planning Process, Economic Development, Housing, and Mobility chapters. Concern was expressed by Council that the definition of a farm is not included as a strategy or otherwise in the Plan. Ms. Cornwell will work with staff to draft a strategy addressing the definition of a farm in Sussex County to be included in the final document.</b> |

**Draft  
Comp  
Plan  
Review  
(continued)**

Ms. Cornwell stated that the next step is to submit the draft plan to the State of Delaware to go through the PLUS process and review by the Cabinet Committee on State Planning Issues. Once the State has completed its review, comments will be provided back for Council's review and scheduling of a public hearing. Following the public hearing, the final draft will be sent back to the State for certification. The Plan must be certified by the Governor by November 30, 2018.

**M 405 18  
Approve  
Forward  
of Draft  
Comp  
Plan to  
State**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council approve forwarding the draft 2018 Comprehensive Plan to the State for PLUS review and review by the Cabinet Committee on State Planning Issues.

**Motion Adopted: 5 Yeas.**

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

**Airport  
Policies  
Update**

Jim Hickin, Airport Manager, presented an update on policy documents that address the operation and use of the Delaware Coastal Airport; namely, Volume I - *Definitions*, Volume II - *General Provisions*, Volume III - *Rules and Regulations*, which were adopted by Council on December 14, 2010, and Volume IV - *Minimum Standards for Commercial Aeronautical Activity*, adopted on July 31, 2012. Mr. Hickin stated that at the June 27, 2018, meeting, the Delaware Coastal Airport Advisory Committee recommended updates to all four volumes of the Airport Policies. The majority of changes reflect the new airport name adopted by Council in 2015. Other changes include updated or new definitions, addition of FAA policy on non-aeronautical use of aircraft hangars, and changes to the hangar waiting list policy

**M 406 18  
Adopt  
Revised  
Delaware  
Coastal  
Airport  
Policies**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that based on the recommendation of the Delaware Coastal Airport Committee, the Sussex County Council adopts the revised Delaware Coastal Airport Policies, Volumes I – IV, as presented.

**Motion Adopted: 5 Yeas.**

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

**EMS  
Award**

Robert Mauch, EMS Manager of Quality and Standards, announced that Sussex County EMS has received the *2018 Mission: Lifeline-EMS – Gold Plus Achievement Award*. This highest-level award from the American Heart Association recognizes Sussex County EMS for demonstrating continued success in using the Mission Lifeline-EMS program. Karen

- EMS Award (continued)**      **Gritton, Director of Development, American Heart Association, presented the award acknowledging this accomplishment, as well as a certificate of appreciation for Sussex County EMS participation in the annual Heart Walk at Delaware Technical Community College.**
- Vehicles RFP**      **Robert Schoonover, EMS Manager of Logistics, and Robert Rogers III, District Manager, Environmental Services – SCRWF, reported on results of the Request for Proposals (RFP) for vehicle purchases for various County departments which was advertised on June 27, 2018. Pricing for ten different types of vehicle models were solicited within the bid. On July 12, 2018, sealed bids for the RFP were opened; two bids were received, one for vehicles and the second for the EMS response vehicle up-fits. The County fleet team recommends awarding the bid for vehicles to Hertrich Fleet Services, Inc., of Milford, Delaware, and the up-fits to the EMS response Chevrolet Suburban vehicles to First Due Customs, LLC, of Seaford, Delaware.**
- M 407 18 Award Bid/ 2019 Model Year Vehicles**      **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council accepts from the lowest responsible bidder, Hertrich Fleet Services, Inc., of Milford, Delaware, the request for various vehicle proposals, Specifications A through J, for the 2019 model year as presented.**  
**Motion Adopted:    5 Yeas.**  
**Vote by Roll Call:    Mr. Arlett, Yea; Mr. Burton, Yea;  
                                 Mr. Wilson, Yea; Mr. Cole, Yea;  
                                 Mr. Vincent, Yea**
- M 408 18 Award Bid/ Conversion/ Up-fits to 2019 Paramedic Response Vehicles**      **A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council accepts from the lowest responsible bidder, First Due Customs, LLC, of Seaford, Delaware, four conversion/up-fits to the 2019 model year Chevrolet Suburban vehicles for use as Paramedic response vehicles at a cost of \$12,968.00 each, for a total award of 51,872.00.**  
**Motion Adopted:    5 Yeas.**  
**Vote by Roll Call:    Mr. Arlett, Yea; Mr. Burton, Yea;  
                                 Mr. Wilson, Yea; Mr. Cole, Yea;  
                                 Mr. Vincent, Yea**
- Angola North Expansion**      **Hans Medlarz, County Engineer, presented Change Order No. 1 for Angola North Expansion, SR 24, Love Creek and Camp Arrowhead Road, Project 17-04.**
- M 409 18 Approve Change Order**      **A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract 17-04, Angola North Expansion, SR 24,**

**M 409 18**      **Love Creek and Camp Arrowhead Road, be approved, decreasing the**  
**(continued)**      **contract amount by \$58,500.42, for a new contract total of \$5,767,749.58.**

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

**Grant**  
**Requests**

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

**M 410 18**      **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$500.00**  
**Council-**      **from Mr. Arlett's Councilmanic Grant Account to The Christian**  
**manic**      **Storehouse for the emergency food pantry and human services assistance**  
**Grant**      **programs.**

**Motion Adopted:    5 Yeas.**

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

**M 411 18**      **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$1,000.00**  
**Council-**      **(\$500.00 from Mr. Wilson's Councilmanic Grant Account and \$500.00 from**  
**manic**      **Mr. Burton's Councilmanic Grant Account) to CHEER, Inc., for the annual**  
**Grant**      **Car-Truck & Bike Show.**

**Motion Adopted:    5 Yeas.**

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

**M 412 18**      **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give**  
**Council-**      **\$2,000.00 (\$1,500.00 from Mr. Wilson's Councilmanic Grant Account and**  
**manic**      **\$500.00 from Mr. Burton's Councilmanic Grant Account) to Milford**  
**Grant**      **Museum for their annual fundraising campaign.**

**Motion Adopted:    5 Yeas.**

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

**M 413 18**      **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$3,000.00**  
**Council-**      **(\$1,000.00 each from Mr. Arlett's and Mr. Cole's Councilmanic Grant**  
**manic**      **Accounts and \$500.00 each from Mr. Burton's and Mr. Vincent's**  
**Grant**      **Councilmanic Grant Accounts) to Delaware Botanic Gardens for**  
                                 **sponsorship of the 2018 Garden Party.**

**M 413 18  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Introduction  
of Proposed  
Zoning  
Ordinances**

**Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18.3155 ACRES, MORE OR LESS” (Change of Zone No. 1866) filed on behalf of Triple B Farms, LLC (Tax I.D. No. 235-27.00-11.00 (portion of) (911 Address: N/A).**

**Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.494 ACRE, MORE OR LESS” (Change of Zone No. 1867) filed on behalf of Four C’s Property, LLC (Tax I.D. No. 334-5.00-74.00) (911 Address: 32182 Nassau Road, Lewes).**

**Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO A CONDITION OF APPROVAL OF CONDITIONAL USE NO. 1771 (ORDINANCE 2056) AND CONDITIONAL USE NO. 2020 (ORDINANCE 2410) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS” (Conditional Use No. 2152) filed on behalf of Charles Auman (Tax I.D. No. 330-11.17-20.00 and 330-15.05-6.00) (911 Address: 7158 Marshall Street, Lincoln).**

**Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.5588 ACRE, MORE OR LESS” (Change of Zone No. 1868) filed on behalf of Ronald Nanney (Tax I.D. No. 235-30.00-10.02) (911 Address: 18490 Harbeson Road, Milton).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Council  
Members'  
Comments**

**Council Members' Comments**

Mr. Arlett requested an update on action taken by the Delaware General Assembly during the recent legislative session that might affect Sussex County, and especially thanked legislators for paramedic funding.

Mr. Cole commented on the homestead exemption and questioned if enabling legislation is required from the State of Delaware to enact. Mr. Moore will research this matter and report back to Council at a later date.

**M 414 18  
Recess**

At 11:24 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess until 1:30 p.m.

**Motion Adopted: 5 Yeas.**

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

**M 415 18  
Reconvene**

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

**Motion Adopted: 3 Yeas; 2 Absent.**

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

Mr. Burton joined the meeting.

**Rules**

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

Mr. Cole joined the meeting.

**Public  
Hearing/  
CU 2130**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY DWELLINGS (20 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.3817 ACRES, MORE OR LESS" (Conditional Use No. 2130) filed on behalf of The Evergreene Companies, LLC (Tax I.D. No. 134-13.00-72.00 and 72.01) (911 Address: 30733 Cedar Neck Road, Ocean View).

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2018, at which time action was deferred. On June 28, 2018, the Commission recommended approval with the following conditions:

**Public  
Hearing/  
CU 2130  
(continued)**

- A. The maximum number of townhouse units shall be 16.**
- B. As provided by Section 115-218 of the Zoning Code, there shall be a forested or landscaped buffer installed around the entire perimeter of the project in compliance with Section 99-5 of the Code of Sussex County.**
- C. All entrances, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.**
- D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements, including any off-site upgrades necessary to provide service to the project.**
- E. The project shall be served by central water to provide drinking water and fire protection.**
- F. Interior street design shall meet or exceed the Sussex County street design requirements.**
- G. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- H. No other outdoor construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.**
- I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.**
- J. The Applicant shall form a condominium association responsible for the perpetual maintenance, repair, and replacement of the roads, the buffers and landscaping, stormwater management facilities, erosion and sediment control facilities, and other common elements.**
- K. 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.**
- 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. As stated by the Applicant, there shall be a swimming pool and pool house installed on the premises. The swimming pool shall be at least 15 feet by 35 feet in size.**
- N. 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 June 14 and June 28, 2018.)**

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



**Public  
Hearing/  
CU 2130  
(continued)**

**An Exhibit Booklet provided by the Applicant was previously distributed to Council.**

**Ms. Cornwell reported that letters have been received in opposition to the application from Marilyn Adams, Harry and Ann Marie Bruley, Maurice and Susan O'Neill, Warren Stumpf, and Robert Liberto, and are made a part of the record.**

**The Council found that James Fuqua, Attorney, and Tim Naughton were present with Ring Lardner of Davis, Bowen & Friedel, LLC, on behalf of the application. Mr. Fuqua stated that the proposed use of the property for 20 townhomes in a MR District has been revised to accept the Planning and Zoning Commission request that the number of units be reduced from 20 to 16 units; that they consider the parcel an in-fill property; that a previous application was submitted in 2011 to request a Change of Zone to B-1, but was denied as the area is primarily residential uses; that the revised proposal is for 16 townhomes with a pool and pool house; that the gross density would be 6.7 units per acre; that the proposed use is in character with the area and the Comprehensive Plan; that they believe the density is appropriate with the area and the Comprehensive Plan; that there are similar properties in the surrounding area including Bethany Lakes, Sunset Harbor, Salt Pond, and Bethany Grand; that the land use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area, mixed residential land use, and is a growth area; that water will be provided by Sussex Shores; that sewer will be provided by Sussex County and there is adequate capacity; that stormwater management will be constructed and maintained using Best Management Practices; that DelDOT did not require a TIS or TOA; that there will be eight duplex units; that they will provide a landscape plan for a buffer adjacent to the residential lots; that approximately 42 percent of the site will be open space; that streetlights will be downward screened; that the community will be a condominium ownership; that a fence, plantings or both will be adjacent to the single family homes; that there will be parking in the garage, surface parking, and two extra parking spaces; that there is a 50-foot setback along both sides of the roads, and they will attempt to preserve as many trees as possible; that a sewer concept plan has been submitted and they will pay for upgrades that will meet Chapter 110 standards; that the sidewalks will connect to existing sidewalks; and that 16 units is an appropriate use of the in-fill parcel.**

**Mr. Fuqua stated that proposed findings and conditions were submitted to the Planning and Zoning Commission.**

**Public comments were heard.**

**Thomas Haug and Michael Hayes spoke in opposition to the application. They stated that the character of the neighborhood has changed over the years, and it is not in character with the neighborhood; that the rezoning**

**Public  
Hearing/  
CU 2130  
(continued)**

will add to the gridlock on four County roads; that there are concerns with buffer areas and the preservation of trees, traffic, lack of infrastructure, drainage from stormwater runoff, sewer capacity, and odor from the pump station on Cedar Neck Road; and the proposed use should not be considered an in-fill project.

There were no additional public comments.

Concerns were expressed by Council regarding traffic and capacity of the pump station on Cedar Neck Road (Pump Station No. 172).

Hans Medlarz, County Engineer, advised that the Engineering Department is not aware of any complaints relating to odors emitting from the pump station.

Council requested that Mr. Medlarz report back in one week regarding the sewer capacity of Pump Station No. 172.

The Public Hearing was closed.

**M 416 18  
Defer  
Action  
and Leave  
Record  
Open/  
CU 2130**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC, and to leave the record open for one week for comments from the Sussex County Engineering Department regarding the sewer capacity of Pump Station No. 172 on Cedar Neck Road, after which time the public will be given a 15-day period to submit comments in writing only.

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CU 2131**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.53 ACRES, MORE OR LESS" (Conditional Use No. 2131) filed on behalf of CBB Cedar Pines, LLC (Tax I.D. No. 134-9.00-21.00) (911 Address: Not Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2018, at which time the Commission recommended approval with the following conditions:**

- A. There shall be no more than 30 units within the Conditional Use area.**

**Public  
Hearing/  
CU 2131  
(continued)**

- B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, and buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.**
- C. 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.**
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- F. 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.**
- G. A 20-foot forested agricultural buffer shall be shown along the perimeter of the entire residential development, including the area covered by Change of Zone No. 1747 for the RPC portion of the development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
- H. The project shall be served by Sussex County sewer.**
- I. As proffered by the Applicant, the developer shall construct all of the recreational amenities no later than the issuance of the 50<sup>th</sup> residential building permit for the entire project, including the RPC portion of the development covered by Change of Zone No. 1747.**
- J. Construction, site work, grading, and deliveries of construction material, landscaping material, and fill on, off, or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.**
- K. The preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.**
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission dated June 14, 2018.)**

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

**An Exhibit Booklet provided by the Applicant was previously distributed to Council.**

**Public  
Hearing/  
CU 2131  
(continued)**

The Council found that James Fuqua, Attorney, was present with Jeff Clark, Land Tech Land Planning, LLC, on behalf of the application. Mr. Fuqua stated that Conditional Use No. 1986 was previously approved and is the same as this application; that the previous Conditional Use expired after three years; that Conditional Use No. 1488 was approved for 143 multifamily units and the owner passed away; that in 2012 a new application was made for an RV park and water park, but was withdrawn; that three new applications were filed in 2014; that the first application was to rezone the site from C-1 to MR, the second application was for an MR-RPC for 45 single family lots, and the third application was for a Conditional Use for the 30 units and was approved; that this application is for the exact 30 units as the Conditional Use which was approved; that the new stormwater regulations caused issues; that the RPC had received the Final Site Plan and was valid for five years, but the Conditional Use is valid for three years and construction must be substantially underway; that stormwater management complies with the Sussex Conservation District; that most of the agency approvals have been obtained; that the units will be clustered around the entrance and amenities; that there will be ten, three-unit buildings; that water will be provided by Sussex Shores and sewer provided by Sussex County; that a sewer concept plan has been approved; that the wetlands have been delineated and the townhomes are away from the wetlands; that there are no wetlands on the Conditional Use site; that the land use classification per the Comprehensive Plan is Environmentally Sensitive Developing Area, mixed use area, and both are growth areas; and that the application is identical to Conditional Use No. 1986.

Questions were raised by Council regarding parking and size of the travel lane.

There were no public comments.

The Public Hearing and public record were closed.

**M 417 18  
Adopt  
Ordinance  
No. 2587/  
CU 2131**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2587 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTIFAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.53 ACRES, MORE OR LESS" (Conditional Use No. 2131) filed on behalf of CBB Cedar Pines, LLC, with the following conditions:

- A. There shall be no more than 30 units within the Conditional Use area.
- B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets,

**M 417 18  
(continued)**

- roads, and buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.
- C. 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.**
  - D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
  - F. 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.**
  - G. A 20-foot forested agricultural buffer shall be shown along the perimeter of the entire residential development, including the area covered by Change of Zone No. 1747 for the RPC portion of the development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
  - H. The project shall be served by Sussex County sewer.**
  - I. As proffered by the Applicant, the developer shall construct all of the recreational amenities no later than the issuance of the 50<sup>th</sup> residential building permit for the entire project, including the RPC portion of the development covered by Change of Zone No. 1747.**
  - J. Construction, site work, grading, and deliveries of construction material, landscaping material, and fill on, off, or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.**
  - K. The preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.**
  - L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CU 2149**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION OF APPROVAL AND REVISE THE AREA FOR**

**Public  
Hearing/  
CU 2149  
(continued)**

**CONDITIONAL USE NO. 2012, ORDINANCE NO. 2430, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.647 ACRES, MORE OR LESS” (Conditional Use No. 2149) filed on behalf of Covered Bridge Trails, LLC (Tax I.D. No. 335-11.00-59.00) (911 Address: Not Available).**

**The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on June 28, 2018; the Commission recommended approval, as follows:**

- 1. Conditional Use No. 2012 was approved by County Council on December 15, 2015, as Ordinance No. 2430 with Condition A which stated, “There shall be no more than 134 units with a mixture of 43 single family units and the balance split between duplex units and townhouse units.”**
- 2. The Applicant is seeking greater flexibility in the number of different types of units allowed, with a minimum of 43 single family units.**
- 3. The total number of units with the project will not change as a result of this amendment request.**
- 4. This change will remain consistent with the types of housing that exist in the area, which includes a mixture of single family homes, townhomes, and multifamily units.**
- 5. The Applicant is also seeking to amend the area of the approved Conditional Use by deleting approximately .27 of an acre representing an existing lot that was originally to be incorporated into the development. This small reduction in the overall area will not have an adverse impact on the project, the community, or area roadways.**
- 6. Based on these reasons, it is appropriate to approve the reduction of overall acreage of Conditional Use No. 2012 and Ordinance No. 2430 from 36.935 acres to 36.664 acres, and that Condition A of Conditional Use No. 2012 and Ordinance No. 2430 shall be amended to state, “There shall be no more than 134 units, being a mixture of a minimum of 43 single family units and the balance split between duplex units and townhouse units.” The remainder of the conditions imposed by Conditional Use No. 2012 and Ordinance No. 2430 shall remain in effect.**

**(See the minutes of the Planning and Zoning Commission dated June 28, 2018.)**

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

**Public  
Hearing/  
CU 2149  
(continued)**

The Council found that Ring Lardner with Davis, Bowen & Friedel, LLC, and Preston Schell with Covered Bridge Trails, LLC, were present on behalf of the application. They stated this is a request to amend Condition A of the previous Conditional Use and the boundary of Conditional Use No. 2012 that was adopted by the County Council; that the previous application only allowed for 43 single family homes, and the Applicant would like the ability to increase the number of single family homes and decrease other housing types; that they would also like to amend the boundary of the Conditional Use; that based on the revised plan they were able to re-create Lot 1 on the opposite side of the bridge; that they intend to build a house on the former parcel by amending the condition for the home which will become part of the Dutch Acres Subdivision; and that there is no intention to build more than the 134 homes originally approved.

There were no public comments.

The Public Hearing and public record were closed.

**M 418 18  
Adopt  
Ordinance  
No. 2588/  
CU 2149**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2588 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION OF APPROVAL AND REVISE THE AREA FOR CONDITIONAL USE NO. 2012, ORDINANCE NO. 2430, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.647 ACRES, MORE OR LESS" (Conditional Use No. 2149) filed on behalf of Covered Bridge Trails, LLC, based on the following:

1. Conditional Use No. 2012 was approved by County Council on December 15, 2015, as Ordinance No. 2430 with Condition A which stated, "There shall be no more than 134 units with a mixture of 43 single family units and the balance split between duplex units and townhouse units."
2. The Applicant is seeking greater flexibility in the number of different types of units allowed, with a minimum of 43 single family units.
3. The total number of units within the project will not change as a result of this amendment request.
4. This change will remain consistent with the types of housing that exist in the area, which includes a mixture of single family homes, townhomes, and multifamily units.
5. The Applicant is also seeking to amend the area of the approved Conditional Use by deleting approximately .27 of an acre representing an existing lot that was originally to be incorporated into the development. This small reduction in the overall area will not have an adverse impact on the project, the community, or area roadways.

**M 418 18  
(continued)**

- 6. Based on the foregoing, it is appropriate to approve the reduction of overall acreage of Conditional Use No. 2012 and Ordinance No. 2430 from 36.935 to 36.664 acres, and that Condition A of Conditional Use No. 2012 and Ordinance No. 2430 shall be amended to state, "There shall be no more than 134 units, being a mixture of a minimum of 43 single family units and the balance split between duplex units and townhouse units." The remainder of the conditions imposed by Conditional Use No. 2012 and Ordinance No. 2430 shall remain in effect.**

**Motion Adopted: 5 Yeas.**

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

**M 419 18  
Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at 3:05 p.m.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

**Susan W. Webb  
Administrative Secretary**

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