

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 25, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 25, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 336 17
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to amend the Agenda by striking the item entitled “Per Attorney General Opinion No. 17-1B28, Reaffirmation of the October 4, 2016 vote related to the position of Planning and Zoning Director”, 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 18, 2017 were approved by consent.

**Public
Comments**

Public Comments

Dan Kramer commented on the Council removing an item from the Agenda on this date.

Paul Reiger commented on the following: the appointment of Planning and Zoning Commission members in July, District 2 appointments to the Planning and Zoning Commission and the Board of Adjustment; regulations in State Code and County Code, and the possibility of the County having a Planning Director and a Zoning Director.

Anthony Scarpa and Al Gratz commented on the proposed Artesian project west of Milton that will service Allen Harim’s poultry processing facility in Harbeson, pumping wastewater from the site through a pipeline which would

**Public
Comments
(continued)**

then be sprayed on crops in the surrounding area. They invited Council to attend a public meeting scheduled for July 27th.

Terry Murphy, CEO of Bayhealth Medical Center, presented an update on Bayhealth's new health campus in southern Delaware which will serve the growing needs of the community.

**MOU/
Delaware
State
Police**

Mr. Lawson introduced Major Sean Moriarty, Captain Alice Brumbley, Captain Darren Short, and Lieutenant Mike Berry of the Delaware State Police who were in attendance for the discussion on a Memorandum of Understanding (MOU) between the Department of Safety and Homeland Security, Division of State Police and Sussex County. The MOU addresses shared Delaware State Police staffing needs in Sussex County in order to maintain an increased police presence in Sussex County. Mrs. Jennings discussed the details of the MOU, reporting that Sussex County has entered into three MOUs with the Delaware State Police with the first one being in 1994; that the previous MOUs created the arrangement that the County Council would fund half of 44 troopers up to the rank of Trooper First Class; that during this year's budget process, the State requested that the County pay for the full personnel cost of 22 officers that range from Trooper to Lieutenant; that this arrangement requires a new MOU to allow for the funding of the additional positions allocated to the County; that after the County's 22 supplement, the new arrangement still guarantees Sussex County will be allocated 187 officers; and that the new allocation of cost has increased the County's commitment by approximately \$700,000.

**M 337 17
Approve
MOU/
Delaware
State
Police**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council approves the Memorandum of Understanding with the Department of Safety and Homeland Security, Division of State Police, 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**

**Public
Hearing/
TH White
Annexation
of the
SCUSSD**

A Public Hearing was held to consider extending the boundary of the Sussex County Unified Sanitary Sewer District, Long Neck Area, to include a parcel of land along the south side of Branch Road and an easement associated with the parcel (TH White Expansion of the Sussex County Unified Sanitary Sewer District - Long Neck Area). This expansion request for Parcel 234-23.00-114.01 (and easement from parcel to Branch Road) was requested by TH White, the owner of the property.

John Ashman, Director of Utility Planning, reported that no correspondence has been received in support of or in opposition to the proposed expansion.

(continued) **There were no public comments and the Public Hearing was closed.**

M 338 17 **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt**
Adopt **Resolution No. R 017 17 entitled “A RESOLUTION TO EXTEND THE**
R 017 17 **BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER**
 DISTRICT (SCUSSD) LONG NECK AREA, TO INCLUDE A PARCEL
 OF LAND (234-23.00-114.01) ALONG THE SOUTH SIDE OF BRANCH
 ROAD AND AN EASEMENT ASSOCIATED WITH THE PARCEL
 BOTH LOCATED IN THE INDIAN RIVER 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: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

Public
Hearing/
Proposed
Ordinance
Relating
to Signs

A Public Hearing was held on the Proposed Ordinance entitled “AN
ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,
CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”), SECTION
159.5(B)(1)”.

Janelle Cornwell, Director of Planning and Zoning, and Jamie Sharp,
Assistant County Attorney, reported that the proposed amendment is very
narrow in scope; that the proposed amendment will allow for an on-premise
sign to be located within 50 feet of an off-premise sign; that there are a few
instances in which a property owner cannot install an on-premise sign as it
would be located within 50 feet of an existing billboard on an adjacent
property. Ms. Cornwell stated that the intent of the Proposed Ordinance is
to allow for an on-premise sign to be located within 50 feet of a billboard.
She noted, however, a billboard could not be located within 50 feet of an on-
premise sign.

Ms. Cornwell reported that the Planning and Zoning Commission held a
Public Hearing on the Proposed Ordinance on July 13, 2017 at which time
the Commission recommended approval.

Public comments were heard.

Dan Kramer commented on a person’s ability to put a sign on their own
property.

There were no additional public comments and the Public Hearing was
closed.

**M 339 17
Adopt
Ordinance
No. 2509**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2509 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”), SECTION 159.5(B)(1)”.

Motion Adopted: 5 Yeas.

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

**Consent
Agenda**

Mr. Vincent presented the Consent Agenda for Council’s approval.

**M 340 17
Approve
Consent
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 856-9
Sussex County Project No. 81-04
Sea Star Village (Formerly Topsail Village) @ Millville by the Sea –
Section 1
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 856-10
Sussex County Project No. 81-04
Sea Star Village (Formerly Topsail Village) @ Millville by the Sea –
Section 2
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 1027-3
Sussex County Project No. 81-04
Silver Woods – Phase 2
Miller Creek Sanitary Sewer District**

Motion Adopted: 5 Yeas.

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

**Adminis-
trator’s
Report**

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

1. Sussex County Comprehensive Land Use Plan Workshop

The Sussex County Planning & Zoning Commission will host the next workshop on the Comprehensive Land Use Plan on Friday, July 28, 2017. The workshop will focus on the Housing Element of the Comp Plan, and an update on the Utilities Element will also be provided. The workshop begins at 9:00 a.m. and will take place in the County Council Chambers located on The Circle in Georgetown. The agenda

Administrator's Report (continued)

is attached, and public comment will be taken at the beginning and end of the meeting.

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

Comprehensive Land Use Plan Update/ Historic Preservation Element

Janelle Cornwell, Director of Planning and Zoning, noted that the Planning and Zoning Commission has been working on the Comprehensive Land Use Plan and holding workshops on the different elements of the Plan. Ms. Cornwell presented the Historic Preservation Element Update to the Comprehensive Land Use Plan, including the vision, goals, objectives and strategies. She noted that this Element reflects the role of the County regarding historic preservation and noted that Dan Parsons serves as the County's Historic Preservation Planner. She noted that Mr. Parsons was instrumental in the drafting of this Chapter. She also noted that the Chapter recognizes the role of the State of Delaware. Further, she noted that included in the Chapter is a listing of properties that are on the National Register of Historic Places in the County and that they are working on mapping these properties. Ms. Cornwell noted that the 2018 Historic Preservation Chapter was previously distributed to Councilmembers. Vince Robertson, Assistant County Attorney, was also in attendance for this discussion.

EMS Vehicles/ Bid Results

Jeff Cox, EMS Deputy Director, presented the bid results for four (4) four-wheel drive Suburban vehicles to be used for EMS response vehicles and four cabinetry up-fit conversions.

M 341 17 Award Bid/ Paramedic Vehicles

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council accepts from the lowest responsible bidder, Hertrich Fleet Services of Milford, Delaware, for four (4) 2018 model year Chevrolet Suburban vehicles for use as Paramedic response vehicles at a cost of \$42,839.00 each, for a total award of \$171, 356.00.

Motion Adopted: 5 Yeas.

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

M 342 17 Award Bid/ Conversion of Paramedic Vehicles

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council accepts from the lowest responsible bidder, First Due Customs , LLC of Seaford, Delaware, for four (4) conversion/up-fits to 2018 model year Chevrolet Suburban vehicles for use as Paramedic response vehicles at a cost of \$10,812.00 each, for a total award of \$43,248.00.

Motion Adopted: 5 Yeas.

**M 342 17
(continued)** **Vote by Roll Call:** **Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Use of Existing Infrastructure Agreement/Ropewalk Restaurant **John Ashman, Director of Utility Planning, presented for the Council's consideration a Use of Existing Infrastructure Agreement with Ropewalk Restaurant in Bethany Beach. He reported that the Ropewalk project is requesting to use additional capacity currently available on the County collection and transmission system. The parcel is currently connected to the system; however, the renovation to the proposed restaurant exceeds the allotted capacity assigned to the parcel by 10.17 EDUs. The project will contribute \$7,763.59 to be expended when the existing collection and/or transmission infrastructure requires upgrades and/or replacement. Payment will be due at such time the additional system connection charges are submitted.**

**M 343 17
Approve Use of Existing Infrastructure Agreement/Ropewalk Restaurant** **A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council President is authorized to execute a Use of Existing Infrastructure Agreement between Sussex County and John H. Burbage, Jr. for the Ropewalk Project in Bethany Beach, as presented on this date.**

Motion Adopted: **5 Yeas.**

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

Sussex Aero Roof Replacement Project **Hans Medlarz, County Engineer, presented a request to grant Substantial Completion for the Sussex Aero Maintenance Roof Replacement Project (Project 17-22). He reported that there have been no change orders on the project and that the project has run on schedule.**

**M 344 17
Sussex Aero Roof Replacement Project/ Substantial Completion** **A Motion was made by Mr. Arlett, seconded by Mr. Cole, based on the recommendation of the Engineering Department, that Substantial Completion for Project 17-22, Sussex Aero Roof Maintenance Roof Replacement, be granted effective June 29, 2017 and any held retainage be released in accordance with contract documents.**

Motion Adopted: **5 Yeas.**

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

Bid Award/Appraisal Services Contract **Hans Medlarz, County Engineer, reported that a Request for Proposals (RFP) was advertised for appraisal services to be provided on an as needed basis for a one year period, with the option to renew annually, for up to five (5) years. The services include, but are not limited to, inspecting and investigating properties to provide certified appraisal reports for fee simple**

**Bid Award/
Appraisal
Services
Contract
(continued)** land acquisitions and any type of easement in support of engineering projects. Mr. Medlarz reported that three proposals were submitted; however two proposals did not meet requirements. Mr. Medlarz reported that the submittal from W. R. McCain & Associates met the minimum requirements of the RFP and the Engineering Department is recommending the authorization of a new contract with the firm for one year, with the option to renew annually for up to five (5) years.

**M 345 17
Approve
Appraisal
Services
Contract** A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Sussex County Council approves the appraisal services contract and allows the Department to negotiate a one year contract with W. R. McCain & Associates for appraisal services, with the option to renew annually for up to five years, effective August 1, 2017.

Motion Adopted: 5 Yeas.

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

**T-Hangar
Replace-
ment
Project** Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for the T-Hangar Replacement Project (Project No. 16-35). Mr. Medlarz reviewed the changes (including stainless steel ramps, added fire requirements, and excavations to expose existing conduits needed) resulting in the Change Order, which will increase the contract amount by \$12,500.53 and extend the contract time by 28 days. Mr. Medlarz stated that the Engineering Department recommends retroactive approval of Change Order No. 1 and also recommends Substantial Completion for the project.

**M 346 17
T-Hangar
Replace-
ment
Project/
Change
Order and
Substantial
Completion** A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract 16-35, T-Hangar Replacement, be approved increasing the contract amount by \$12,500.53 for a new total of \$579,558.70 and that Substantial Completion be granted effective May 31, 2017 and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU 2071** Under Old Business, Janelle Cornwell, Director of Planning and Zoning, reported on Conditional Use No. 2071 filed on behalf of Blessing Greenhouses and Compost. She reported that the Council held a Public Hearing on April 25, 2017 at which time the record remained open for 15 days for additional public comment, in writing only, until the close of

**Old Business/
CU 2071
(continued)** **business on May 10th; thereafter, the record remained open for an additional 15 days for written comment only from either side on information submitted during the first 15-day period, until the close of business on May 25; thereafter, the record remained open for an additional 15 days for Council to ask questions of staff or agencies, until the close of business on June 9th. Ms. Cornwell reported that information received was included in Council packets, outlining questions received from Council and responses received from the different organizations and agencies.**

**Old Business/
CU 2074** **Under Old Business, Janelle Cornwell, Director of Planning and Zoning, reported on Conditional Use No. 2074 filed on behalf of Quail Valley 1525, LLC (aka Midway Fitness). She reported that the Council held a Public Hearing on May 23, 2017 at which time the public record was left open and thereafter closed on June 20, 2017. Ms. Cornwell noted that the public comments received were submitted to the members of the Council. Additionally, Council asked staff to provide information on the square footage of buildings in and around the area and staff has provided that information in the Council packet.**

Future Agenda Items **Mr. Burton requested that Conditional Use No. 2071 and Conditional Use No. 2074 be placed on the next Council agenda.**

Introduction of Proposed Ordinances **Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS” (Conditional Use No. 2106) filed on behalf of MDI Investment Group, LLC (Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00) (911 Address: Not Available).**

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS” (Change of Zone No. 1831) filed on behalf of East Gate Farm, Inc. (Tax I.D. No. 330-11.00-73.09) (911 Address: Not Available).

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 MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS” (Change of Zone No. 1832) filed on behalf of MDI Investment Group, LLC (Tax I.D. No. 334-6.00-511.00 and 334-6.00-

- Introduction of Proposed Ordinances (continued)** **512.00) (911 Address: Not Available).**
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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR LESS” (Change of Zone No. 1833) filed on behalf of Eagles Nest Fellowship Church (Tax I.D. No. 235-15.00-7.01) (911 Address: 13275 Reynolds Road and 26381 Broadkill Road, Milton).
- Council Members’ Comments** **Council Members’ Comments**
Mr. Cole, Mr. Arlett, and Mr. Burton reported on the NACo Conference that they recently attended.

Mr. Lawson reported that the agenda for August 1 is a light agenda and Council discussed whether or not to hold a meeting.
- M 347 17 Cancel Meeting** **A Motion was made by Mr. Cole, seconded by Mr. Burton, to cancel the August 1, 2017 meeting.**
Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea**
- M 348 17 Go Into Executive Session** **At 11:43 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session to discuss pending litigation.**
Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea**
- Executive Session** **At 11:49 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing pending litigation. The Executive Session concluded at 12:00 Noon.**
- M 349 17 Reconvene Regular Session** **At 12:02 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.**
Motion Adopted: 5 Yeas.

**M 349 17
(continued)** **Vote by Roll Call:** **Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

E/S Action **There was no action on Executive Session matters.**

**M 350 17
Recess** **At 12:02 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, 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 351 17
Reconvene** **At 1:48 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to
reconvene.**

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

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

Rules **Mr. Moore read the Rules of Procedure for public hearings.**

**Public
Hearing/
CU 2083** **A Public Hearing was held on the Proposed Ordinance entitled “AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE,
STORAGE BUILDING, STORAGE YARD AND CRUSHING OF
CONCRETE FOR A CONTRACTING BUSINESS TO BE LOCATED ON
A CERTAIN PARCEL OF LAND LYING AND BEING IN
GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.97
ACRES, MORE OR LESS” (Conditional Use No. 2083) filed on behalf of
Richard H. Bell III (Tax I.D. No. 135-15.00-79.03) (911 Address: 22592
Lewes-Georgetown Highway, Georgetown).**

**The Planning and Zoning Commission held a Public Hearing on this
application on June 22, 2017. On July 13, 2017, the Commission
recommended approval with the following conditions:**

- a. The recycling and crushing use shall be limited to concrete and the steel that is encased. No other wood or metal chipping or grinding shall occur and no other materials shall be accepted at the site for crushing or recycling.**
- b. Crushing operations shall only occur between the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonably interfere with events occurring there.**

**Public
Hearing/
CU 2083
(continued)**

- c. **Materials may be accepted for the crushing and recycling operation between 7:00 a.m. and 5:00 p.m. Monday through Friday.**
- d. **Landscaping shall be installed to screen the use from adjacent residential dwellings. The landscaping shall be shown on the Final Site Plan.**
- e. **Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- f. **Water shall be available at all times to control dust within the site.**
- g. **One lighted sign shall be permitted. It shall not be greater than 32 square foot per side.**
- h. **The Applicant shall comply with all roadway and entrance improvements required by DelDOT.**
- i. **The Applicant shall not advertise or display products within the front yard area except in the form of landscaping beds and planters.**
- j. **There shall be no parking within the front yard setback.**
- k. **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 22 and July 13, 2017.)

Janelle Cornwell, Director of Planning and Zoning, reported on the Planning and Zoning Commission's public hearing and recommendation of approval.

The Council found that Richard Bell was present on behalf of his application. He stated that he owns Clean Cut Interlocking Pavers; that he proposes to use the project site for storage of materials, storing of pools, and for crushing concrete; that they recycle crushed concrete and use it underneath their projects; that he will minimize noise and dust; that a portion of the property is secured with fencing and a locking gate; that he has owned the site since 2005; that he rents out the residence on the site; that work at the site will only take place Monday through Friday; that five to ten trucks per day may access the site to dump rubble; that he would be agreeable to restrictions on crushing concrete (times allowed); that there will be a 20 foot wide landscape buffer on either side of the property; that no Traffic Impact Study was required and no turn lanes were required; that DelDOT has specified the design of the entrance; and that the crusher is mobile and at times will be taken to a job site. Mr. Bell discussed the location of the site, the entrance to the site, stormwater management, and described where he proposes to place storage piles and where the concrete crushing will take place. Mr. Bell commented on the Conditional Use permit approved in 2005 and the reason why it expired.

Mr. Bell noted the receipt of a letter of support from a neighbor, which has been made a part of the record.

Public comments were heard.

**Public
Hearing/
CU 2083
(continued)**

George Dick spoke in opposition to the proposed use. He stated that he lives across the road; that the Applicant has been hauling material to the property for a year; that he has concerns about noise and truck traffic; that no entrance has been applied for according to DelDOT; and that the use of the existing driveway for this use is dangerous.

There were no additional public comments and the Public Hearing was closed.

**M 352 17
Defer
Action on
CU 2083**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to defer action on Conditional Use No. 2083 filed on behalf of Richard H. Bell III.

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 2084**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECYCLE CENTER AND WEIGHT SCALE OPERATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 30.89 ACRES, MORE OR LESS” (Conditional Use No. 2084) filed on behalf of Term 2, LLC (Tax I.D. No. 333-14.00-23.00) (911 Address: 20139 Lowes Road, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on June 22, 2017. On July 13, 2017, the Commission recommended approval with the following conditions:

- a. The use shall be limited to a recycling center with a scale for concrete, asphalt, wood, soils and other similar materials. No food products, metals, sanitary wastes or liquids shall be accepted at the site.**
- b. Material acceptance and processing hours shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Saturday.**
- c. There shall be a vegetated buffer of at least 50 feet from all boundaries of the site.**
- d. No material processing shall occur within 100 feet of County Road 427.**
- e. Water truck shall be available to control dust within the site.**
- f. One lighted sign shall be permitted. It shall not be greater than 32 square feet per side.**
- g. 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 22 and July 13, 2017.)

**Public
Hearing/
CU 2084
(continued)**

Janelle Cornwell, Director of Planning and Zoning, reported on the Planning and Zoning Commission’s public hearing and recommendation of approval.

It was noted that an Exhibit Book was previously provided by the Applicant.

The Council found that Dennis Schrader, Attorney, was present with Barry Baker, Principal of the Applicant; Mike Reimann with Becker Morgan Group; and Kyle Lampron with Ten Bears Environmental. They discussed the proposed use of the property as a recycle center and weight scale operation, the history of the parcel, surrounding properties including commercial uses, water and sewer availability, and site plan. They presented information on the entrances, stormwater management, the use of a mobile crusher, berming, and structures on the site. They also explained that the proposed use is to allow for the property to operate as a construction material recycle yard with associated warehouse, construction equipment storage, and office space. It was noted that no Traffic Impact Study was required by DeIDOT.

The Applicant responded to Council’s questions regarding the operation. He stated that that he does not sell crush; that there would be approximately 50 trips per day; that trucks can stack off of the roadway; and that it is a pre-existing use with no impact on neighbors.

Mr. Cole commented on the use of the site in the past as a borrow pit and the need for a reclamation plan. A discussion ensued on this matter.

There were no public comments and the Public Hearing was closed.

**M 353 17
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the conditions recommended by the Planning and Zoning Commission with a new “g”, as follows: “The Applicant shall comply with all DeIDOT requirements.”

Motion Adopted: 5 Yeas.

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

**M 354 17
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the conditions recommended by the Planning and Zoning Commission with a new “h”, as follows: “Upon conclusion of the use of this Conditional Use, the site shall be reclaimed by planting trees and/or grass, and shall be noted on the Final Site Plan”.

Motion Adopted: 3 Yeas, 2 Nays.

**M 354 17
(continued)**

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

Mr. Moore noted that the Commission’s recommended condition “g” would move to condition “i”.

**M 355 17
Adopt
Ordinance
No. 2511/
CU 2084**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2511 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECYCLE CENTER AND WEIGHT SCALE OPERATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 30.89 ACRES, MORE OR LESS” (Conditional Use No. 2084) filed on behalf of Term 2, LLC, with the following conditions, as amended:

- a. The use shall be limited to a recycling center with a scale for concrete, asphalt, wood, soils and other similar materials. No food products, metals, sanitary wastes or liquids shall be accepted at the site.**
- b. Material acceptance and processing hours shall be limited to 7:00 a.m. through 7:00 p.m., Monday through Saturday.**
- c. There shall be a vegetated buffer of at least 50 feet from all boundaries of the site.**
- d. No material processing shall occur within 100 feet of County Road 427.**
- e. Water truck shall be available to control dust within the site.**
- f. One lighted shall be permitted. It shall not be greater than 32 square feet per side.**
- g. The Applicant shall comply with all DelDOT requirements.**
- h. Upon conclusion of the use of this Conditional Use, the site shall be reclaimed by planting trees and/or grass, and shall be noted on the Final Site Plan.**
- i. 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/
CZ 1819**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 13.063 ACRES, MORE OR LESS” (Change of Zone No. 1819) filed on behalf of MTC

**Public
Hearing/
CZ 1819
(continued)**

Properties, LLC (Tax I.D. No. 530-14.00-24.00 (portion of) (911 Address: 14485 Sussex Highway, Bridgeville).

The Planning and Zoning Commission held a Public Hearing on this application on June 22, 2017. On July 13, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated June 22 and July 13, 2017.)

Janelle Cornwell, Director of Planning and Zoning, reported on the Planning and Zoning Commission’s public hearing and recommendation of approval.

The Council found that J.J. Carter, one of the owners of All-Span was present on behalf of the application. He stated that All-Span owns the property under MTC Properties, LLC; that they wish to expand the business; that they wish to change the Conditional Use for truss manufacturing to CR-1 zoning so they are not limited to truss manufacturing in the future; that they wish to offer more products and services; that commercial zoning is not out of character with the area as other commercial uses are in close proximity; that a commercial entrance with curbing and a deceleration lane already exists; that only a portion of the parcel is being requested to be rezoned; that the survey shows the area to be rezoned; that the existing site where they manufacture trusses is zoned C-1 goes 600 feet to the back and they are asking for a continuation of the 600 feet forward.

There were no public comments and the Public Hearing was closed.

**M 356 17
Adopt
Ordinance
No. 2512/
CZ 1819**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2512 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 13.063 ACRES, MORE OR LESS” (Change of Zone No. 1819) filed on behalf of MTC Properties, LLC.

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/
CZ 1823**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR

**Public
Hearing/
CZ 1823
(continued)**

A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.4890 ACRES, MORE OR LESS” (Change of Zone No. 1823) filed on behalf of WMF Watercraft & Marine, Inc. (Tax I.D. No. 234-29.00-64.00, 64.01, and 65.00) (911 Address: 27037 John J. Williams Highway, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on June 22, 2017. On July 13, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated June 22 and July 13, 2017.)

Janelle Cornwell, Director of Planning and Zoning, reported on the Planning and Zoning Commission’s public hearing and recommendation of approval.

It was noted that an Exhibit Book was previously provided by the Applicant.

The Council found that Tim Willard, Attorney, was present with William Forenski, Principal of WMF Watercraft & Marina, and Ring Lardner of Davis Bowen & Friedel. They stated that the proposed project is currently used for watercraft sales, storage and repair; that the business has grown and needs more storage space; that the lots are currently vacant; that they are asking that all three lots totaling approximately 4 acres be rezoned; that the Applicant wishes to rezone the property so that the existing use will become a permitted use; that a Traffic Impact Study was not required; that the use is compatible with the area; that it is a fill-in of a commercial area; and that since it is an existing use, an entrance approval from DelDOT is not required.

There were no public comments and the Public Hearing was closed.

**M 357 17
Adopt
Ordinance
No. 2513/
CZ 1823**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2513 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.4890 ACRES, MORE OR LESS” (Change of Zone No. 1823) filed on behalf of WMF Watercraft & Marine, Inc.

Motion Adopted: 5 Yeas.

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

**M 358 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 3:23 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,

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

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