

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 21, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 21, 2018, 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 465 18
Amend
and
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to amend the agenda by deleting “Executive Session – Pending Litigation pursuant to 29 Del. C. §10004(b)”, and “Possible Action on Executive Session Items”, 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 August 14, 2018 were approved by consent.

**Corre-
spondence**

Correspondence

PEOPLES PLACE, MILFORD, DELAWARE.

Re: Letter in appreciation of Council’s donation for the Veterans Outreach Program.

**Public
Comments**

Public Comments

Paul Reiger commented on certain applications and on the bodies that should hear these applications (Board of Adjustment, or Planning and Zoning Commission and Sussex County Council). Mr. Reiger also commented that the County needs to update the County Code relating to dog control issues and dog licensing.

**Public
Comments
(continued)**

Dan Kramer stated that two councilmembers will be leaving at the end of the year and he referenced ordinances on the books that need to be acted on prior to their departure.

**Present-
ation/
Historic
Lewes
Byway/
Voluntary
Design
Guidelines**

Russ Tatman gave a presentation on the proposed Voluntary Design Guidelines Program for the Historic Lewes Byway, including the Awareness Program and Guideline Program. He explained that the Historic Lewes Byway Committee has undertaken the task of preparing Voluntary Design Guidelines to provide conceptual design guidelines for land. Mr. Tatman reported that the Lewes City Council has accepted and approved the Voluntary Design Guidelines Programs and that the Byway Committee is requesting that these programs be included as part of the County's Comprehensive Plan and/or to be endorsed by the County Council. Mr. Tatman noted that the Byway is not a regulatory or enforcement tool and that the recommendations made are just that and are not a mandate to property owners. Further, the Byways Programs do not make land use, zoning, or road decisions.

**Adminis-
trator's
Report**

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

1. Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee will meet on Monday, August 27th, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. The Subcommittee will continue to discuss planning for their next conference scheduled for May 9, 2019. A copy of the agenda is attached.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Belle Terre – Phase 1A (Construction Record) received Substantial Completion effective August 17th.

3. Council Meeting/Holiday Schedule

A reminder that Council will not meet on August 28th or September 4th. The next regularly scheduled Council meeting will be held on September 11th at 10:00 a.m.

County offices will be closed Monday, September 3rd, for the Labor Day holiday.

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

**Bulk
Delivery
of Caustic
Soda
Project
Bids**

Hans Medlarz, County Engineer, presented the bid results for Project No. M19-07, Bulk Delivery of 50% Caustic Soda, to the South Coastal Regional Wastewater Facility and the Delaware Coastal Airport for augmentation in the treatment processes. Four bids were received; Coyne Chemical offered the lowest bid price per gallon at \$2.9824 and \$6.0510 per gallon for the 55-gallon containers.

**M 466 18
Award Bid/
Bulk
Delivery
of Caustic
Soda
Project**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Sussex County Project M19-07, Bulk Delivery of 50% Caustic Soda, be awarded to George S. Coyne Chemical Co., Inc. of Croydon, Pennsylvania, at the bid amount of \$2.98 per gallon and \$6.05 per gallon for 55-gallon containers, respectively.

Motion Adopted: 5 Yeas.

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

**Construct
Parallel
Taxiway D
Phase 2
Project/
Contract
18-03/
Bids
and
Funding
Requests**

Mr. Medlarz referenced action taken by Council on July 17, 2018 regarding the bids received for the project known as “Construct Parallel Taxiway D, Phase 2, Project #18-03”. The two bids received were significantly above the engineer’s estimate, and the low bidder was nonresponsive for submittal of an incorrect bid form. The Engineering Department recommended the rejection of all bids and the immediate rebid of the project to meet FAA grant application deadlines.

Mr. Medlarz reported that the project approach was re-evaluated and several contingency items were incorporated in the bid schedule. In addition, some of the administrative requirements were clarified. The project was rebid and two bids were received. George & Lynch was the low bidder with an Alternate 2 base bid of \$4,939,835.70 and an Additive 1 bid of \$599,353.60. The Engineering Department recommends award of both bid items for a total of \$5,539,189.30, contingent on FAA funding approval.

In addition, Mr. Medlarz reported that the Engineering Department requests approval of Delta Airport Consultants Task Order 7R2 for construction administration phase services for the project, in a not to exceed amount of \$595,610.00, contingent on FAA funding approval.

A funding request covering both amounts has been submitted to the FAA for approval.

**M 467 18
Award
Contract
18-03**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Contract 18-03, Construction of Parallel Taxiway D, Phase 2, be awarded to George & Lynch, Inc., for the Alternate #2 and Additive #1 total bid of

M 467 18 **\$5,539.189.30, contingent upon FAA funding approval.**
(continued)

Motion Adopted: 5 Yeas.

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

M 468 18 **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the**
Award **recommendation of the Engineering Department, that Task Order No. 7R2**
Task **for the Delta Airport Consultants in the amount of \$595,610.00 be awarded,**
Order 7R2 **contingent on FAA funding approval.**

Motion Adopted: 5 Yeas.

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

Milton **Mr. Medlarz presented Change Order No. 3 to the Milton Library**
Library **Bulkhead Replacement Foundation Repair Project, Contract #18-09, to**
Project/ **cover void filling, patio wall replacement with rail system, floor coring and**
Change **other incidental requirements encountered in the process on a time and**
Order **material basis in a not to exceed amount of \$45,000.00.**

M 469 18 **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the**
Approve **recommendation of the Sussex County Engineering Department, that**
Change **Change Order No. 3 for Contract #18-09, Milton Public Library Bulkhead**
Order/ **Replacement, be approved for a not to exceed amount of \$45,000.00, for a**
Milton **new contract total of \$394,451.75.**
Library
Project

Motion Adopted: 5 Yeas.

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

Mainte- **Mr. Medlarz reported on the bids awarded (Base Bids 1, 2 and 3) on June**
nance **19, 2018 to Creative Visions Landscaping for the 2018 Sussex County**
Contract/ **Delaware Coastal Airport, Industrial Park and Business Park Property**
Report **Maintenance Contract. Mr. Medlarz reported that Creative Visions**
and **Landscaping was unable to perform the services as required under the**
Recom- **contract documents and the Engineering Department recommends**
mendation **cancellation of the bids and authorization to re-advertise in 2019. He noted**
that, for the remainder of the 2018 growing season, the County's Buildings
and Grounds team will continue the mowing operations.

M 470 18 **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the**
recommendation of the Engineering Department, that the 2018 Sussex

**M 470 18
Terminate
Property
Mainte-
nance
Contract
(continued)**

County Delaware Coastal Airport, Industrial Park and Business Park Property Maintenance RFP Base Bids 1, 2 and 3 previously awarded to Creative Visions Landscaping by County Council on June 19, 2018, be terminated based on non-performance and rebid for the 2019 growing season.

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 2130**

Under Old Business, the Council considered Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

The County Council held a Public Hearing on this application on July 24, 2018 at which time action was deferred and the record was left open for one week for a response from the County Engineering Department regarding the sewer capacity of Pump Station No. 172 on Cedar Neck Road, after which time the public was given a 15-day period to submit comments in writing only.

Ms. Cornwell noted that a report from the Engineering Department was given to Council on July 31st and noted further that the 15 day comment period has passed.

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 for the following reasons:

- 1. This application seeks approval of 20 townhome structures on 2.3871 acres, for a proposed density of approximately 8.4 units per acre.**
- 2. The property is at the intersection of Fred Hudson Road and Cedar Neck Road, which is one of the busiest intersections in this area. The property is also bounded by single family homes and the clubhouse and pool area of an adjacent single family residential development.**
- 3. Multiple parties appeared in opposition to this project, including residents of the adjacent Bethany Lakes development. That property, like this one, has a MR zoning, but it was developed at a much lower density on larger single-family lots. The opposition included concerns about the density, increased traffic at this already heavily-travelled intersection and other factors.**
- 4. I am concerned about the proposed density on this small of a property. It appears that this is the maximum density that will fit on the property taking into account the dimensional and minimum parking requirements.**
- 5. The Applicant has cited the densities of other nearby developments for comparison and similarity to this development. However, many of those developments are zoned C-1, which permits density “by-right” of**

**Old
Business/
CU 2130
(continued)**

up to 12 units per acre. In the case of Sunset Harbor, that density was long ago established with a manufactured home park that previously existed on the site. Here, unlike the C-1 zoned properties in the area, this parcel zoned MR, which only permits a “by-right” base density of 4 units per acre.

6. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan. Although the Plan states that multifamily structures are appropriate in this Area, it also states that the density should primarily remain between 2 and 4 units per acres. In some cases, it may be appropriate to increase the density, especially on larger tracts that can accommodate the density, but not here on a very small tract of land at a prominent intersection.
7. I am also concerned that by maximizing the number of townhouses on this property, there is little room for overflow parking and there is very little separation between this property and the single-family development adjacent to it.
8. Section 115-218 of the Zoning Code allows the County to require the 20-foot forested buffer around a multifamily development when appropriate. Given the location and surroundings of this property, it is appropriate to require the 20 foot vegetated buffer around the entire perimeter of the project.
9. With the buffer requirements, and based upon my concerns about the overall density of the project and proposed site plan, the number of units permitted as part of this project shall be reduced to 16. That will allow for the installation of the required buffer and it will allow for additional parking within the site.
10. The development will be served by central sewer provided by Sussex County.
11. This recommendation is subject to the following conditions:
 - 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 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 offsite 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

Old
Business/
CU 2130
(continued)

- 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 Departments.
 - 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 sedimentation 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 County 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.

Mr. Moore read the short title of the Proposed Ordinance.

Mr. Cole recommended the following changes to the Planning and Zoning Commission's reasons for approval and recommended conditions:

- 8. Section 115-218 of the Zoning Code allows the County to require the 20-foot forested buffer around a multifamily development when appropriate. Given the location and surroundings of this property, it is appropriate to require ~~the a 20 25~~ foot vegetated buffer around the entire perimeter of the project not including road frontage.
- 9. With the buffer requirements, and based upon my concerns about the overall density of the project and proposed site plan, the number of units permitted as part of this project shall be reduced to ~~16~~ 9. That will allow for the installation of the required buffer and it will allow for additional parking within the site.
- 10. The development will be served by central sewer provided by Sussex County and public water.
- 11. A. The maximum number of townhouse units shall be ~~16~~ 9.
- 11. B. As provided by Section 115-218 of the Zoning Code. There shall be a forested or landscaped buffer of 25 feet installed around the entire perimeter of the project in compliance with Section 99-5 of the Code of Sussex County.

Old
Business
(continued)

11. 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.~~

M 471 18
Amend
P&Z's
Reason for
Approval
#8

A Motion was made by Mr. Cole, seconded by Mr. Burton, to amend the Planning and Zoning Commission's reason #8, as follows:

8. Section 115-218 of the Zoning Code allows the County to require the 20-foot forested buffer around a multifamily development when appropriate. Given the location and surroundings of this property, it is appropriate to require a 25 foot vegetated buffer around the perimeter of the project not including road frontage.

Motion Adopted: 5 Yeas.

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

M 472 18
Amend
P&Z's
Reason
for
Approval
#9

A Motion was made by Mr. Cole, seconded by Mr. Burton, to amend the Planning and Commission's reason #9, as follows:

1. With the buffer requirements, and based upon my concerns about the overall density of the project and proposed site plan, the number of units permitted as part of this project shall be reduced to 9. That will allow for the installation of the required buffer and it will allow for additional parking within the site.

A discussion was held on the proposed reduction from 16 to 9. Mr. Cole stated that the MR District permits 4 units per acre; that this site is 2.3871 acres; and that 9 units are permitted. Mr. Cole noted the Planning and Zoning Commission's concern about the small size of the site and the fact that it sits on the corner of a busy intersection. Mr. Cole referenced recent rezonings in the area and he commented on the area being greatly impacted by traffic.

Mr. Vincent stated that he would like some research done on the other zonings/densities in the general area (decisions made by the current Council), and a report be presented to Council at the September 11, 2018 Council meeting.

M 472 18
Withdrawn

Mr. Cole and Mr. Burton withdrew their Motions.

M 473 18
Defer
Action on
CU 2130

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to defer action on Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

Motion Adopted: 5 Yeas.

M 473 18
(continued) **Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;**
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea

CU 2130
(continued) **Mr. Moore noted that since there has already been a Motion made to amend a condition, that Motion can be confirmed when the actual vote takes place on the application.**

Grant
Requests **Mrs. Jennings presented grant requests for the Council’s consideration.**

M 474 18
Council-
manic
Grant **A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$3,000.00 from Mr. Cole’s Councilmanic Grant Account to the City of Rehoboth for playground equipment.**

Motion Adopted: 5 Yeas.

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

M 475 18
Council-
manic
Grant **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$1,000.00 (\$500.00 each from Mr. Burton’s and Mr. Wilson’s Councilmanic Grant Accounts) to the Chamber of Commerce for Greater Milford for the Riverwalk Freedom Festival.**

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
Ordinance **Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (135 TOWNHOUSES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 47.7177 ACRES, MORE OR LESS” (Conditional Use No. 2142) filed on behalf of RH Orr, LLC, c/o Ribera Development, LLC (Tax I.D. No. 134-16.00-39.00) (911 Address: 34365 Central Avenue, Frankford).**

The Proposed Ordinance will be advertised for Public Hearing.

Council
Members’
Comments **Council Members’ Comments**

Mr. Cole commented on the letter from the Delaware Coalition for Open Government regarding the Sussex County Board of Adjustment. Mr. Moore stated that he would provide a report at the next Council meeting on September 11, 2018.

M 476 18 **At 11:31 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to**
Recess **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 477 18 **At 1:34 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to**
Reconvene **reconvene.**

Motion Adopted: 5 Yeas.

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

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

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2136 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL**
 OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING
 AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
 COUNTY, CONTAINING 0.918 ACRE, MORE OR LESS” (Conditional
 Use No. 2136) filed on behalf of Christine Degnon (Tax I.D. No. 335-8.18-
 4.00) (911 Address: 1409 Savannah Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on July 26, 2018 at which time action was deferred and the record was left open to allow the Applicant to respond in writing in response to conditions submitted by Derek and Sally Cole. The application has not yet been acted on by the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated July 26, 2018.)

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

The Council found that Hal Dukes, Attorney, was present with Dr. Christine Degnon. They discussed the search for a building and the selection of this site for a medical office and the model of services she proposes as a primary care doctor. They stated that they do not propose to change the footprint of the site, with the exception of the parking lot which will be at the rear of the property; that they propose changes to the exiting building to make it ADA accessible; and that she does not propose a lighted sign.

**Public
Hearing/
CU 2136
(continued)**

Public comments were heard.

Derek Cole, neighbor and adjacent property owner, stated that he and his wife submitted responses to questions raised by the Planning and Zoning Commission; that they are not opposed to the application and are trying to work with the Applicant; that they and the Applicant had agreed that the trees along the driveway would be taken up and a fence erected and now the Applicant does not agree to it; that they want this as a condition of approval because the trees are a safety hazard/obstacle; that they ask that the hours of operation begin no earlier than 8:30 a.m. as they are concerned about the safety of their children as they wait for the school bus; and that they are opposed to after-hour emergency care as it is not compatible with the area which is a residential neighborhood area.

Sally Cole, neighbor and adjacent property owner, stated that she is not in support of the application without conditions; that conditions are needed to address safety concerns; that the Applicant changed her mind about removing the trees and erecting a fence; that a fence needs to be erected for safety reasons; that she requests a fence and appropriate signage; and that she is opposed to after-hours emergency care.

There was a discussion on the shared driveway with the adjacent property owned by the Mr. and Mrs. Cole. Ms. Cornwell noted that DelDOT will determine the entrance requirements.

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

It was noted that the record will remain open for the Planning and Zoning Commission's recommendation.

**M 478 18
Defer
Action**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to defer action on Conditional Use No. 2136 filed on behalf of Christine Degnon.

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 2138**

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 SITE CONTRACTING EXCAVATING SERVICES WITH STORAGE, REPAIR AND MAINTENANCE AND LIGHT MATERIAL AND STORAGE AND GENERAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 13.76 ACRES, MORE OR LESS" (Conditional Use No. 2138) filed on behalf of Walker

**Public
Hearing
CU 2138
(continued)**

Construction, Inc. (Tax I.D. No. 234-2.00-23.03 (portion of) (911 Address: 33077 Walker Farm Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on July 26, 2018 at which time action was deferred. On August 9, 2018, the Commission recommended approval with the following conditions:

- A. This use shall be limited to site contracting and excavating services with storage, along with maintenance and repairs to the equipment associated with the business and office space for the business. No other businesses shall be conducted from the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. As stated by the Applicant, no sign shall be permitted.**
- D. The hours of operation shall be limited to 6:00 a.m. through 6:00 p.m. Monday through Friday and 7:00 a.m. through 2:00 p.m. on Saturday. There shall not be any Sunday hours of operation.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. There shall not be any dumping on the site, and a single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.**
- I. 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.**
- J. All equipment and vehicle maintenance and repair shall occur indoors.**
- K. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation located on the site with a minimum vegetated buffer of at least 50 feet from all property lines. This buffer shall be shown on the Final Site Plan.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. 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 July 26, 2018 and August 9, 2018.)

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

**Public
Hearing
CU 2138
(continued)**

Ms. Cornwell noted that an updated site plan and new exhibit booklet were provided to Council. It was also noted that the only different information contained in the exhibit booklet were updated conditions of approval.

Mark Davidson of Pennoni Associates was present with Nathan and Melissa Walker. They stated that the property consists of 17.5 acres; however the application is for 13.76 acres of the 17.5 acre parcel. They stated that they have been in business for 15 years; that the services they provide is light excavation work, such as lot grading, work in subdivisions, etc.; that they also provide snow plowing services for neighbors; that they want the opportunity to grow their business and number of employees; that their residence is located on the property; that a horse barn, pasture and residence is located on the property but is not included in the acreage for the proposed use; that no borrow operations will take place and that the site will not be a dumping site; that a porta-potty will be placed on the site for employees; that the site is surrounded by wooded areas and the closest house is 900 feet away; that no sign is requested; that there will be a 50 foot buffer around the Conditional Use area; and that there are letters of support in the record.

Council noted that the Applicant may wish to have a sign on the site in the future and 16 square foot unlit sign was recommended.

There were no public comments.

The Public Hearing and public record were closed.

**M 479 18
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Condition 8C recommended by the Planning and Zoning Commission to read as follows: "One unlighted 4' by 4' double sided sign shall be permitted."

Motion Adopted: 5 Yeas.

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

**M 480 18
Adopt
Ordinance
No. 2596/
CU 2138**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2596 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SITE CONTRACTING EXCAVATING SERVICES WITH STORAGE, REPAIR AND MAINTENANCE AND LIGHT MATERIAL AND STORAGE AND GENERAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 13.76 ACRES, MORE OR LESS" (Conditional Use No. 2138) filed on behalf of Walker Construction, Inc., with the following conditions, as amended:

**M 480 18
Adopt
Ordinance
No. 2596/
CU 2138
(continued)**

- A. This use shall be limited to site contracting and excavating services with storage, along with maintenance and repairs to the equipment associated with the business and office space for the business. No other businesses shall be conducted from the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. One unlighted 4' by 4' double sided sign shall be permitted.**
- D. The hours of operation shall be limited to 6:00 a.m. through 6:00 p.m. Monday through Friday and 7:00 a.m. through 2:00 p.m. on Saturday. There shall not be any Sunday hours of operation.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. There shall not be any dumping on the site, and a single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.**
- I. 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.**
- J. All equipment and vehicle maintenance and repair shall occur indoors.**
- K. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation located on the site with a minimum vegetated buffer of at least 50 feet from all property lines. This buffer shall be shown on the Final Site Plan.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- 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: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**M 481 18
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 2:36 p.m.

Motion Adopted: 5 Yeas.

**M 481 18
(continued)**

**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.}