

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 27, 2024**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 27, 2024, at 12:30 p.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd Lawson</b>	<b>County Administrator</b>
<b>Vince Robertson</b>	<b>Assistant 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 439 24  
Approve  
Agenda**

**Mr. Lawson reported that under the Consent Agenda, Item Nos. 2 and 3 can be removed. A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the agenda as amended.**

**Motion Adopted: 5 Yeas**

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

**Minutes**

**The minutes of August 13, 2024, were approved by consent.**

**Correspond-  
ence**

**Mr. Robertson reported that correspondence was received from Mispillion Performance Series and Autism Delaware thanking Council for their donation.**

**Public  
Comments**

**There were no public comments.**

**M 440 24  
Approve  
Consent  
Agenda**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to approve the following items under the Consent Agenda:**

**Use of Existing Wastewater Infrastructure Agreement – IUA 1266  
Channel Pointe Villas, Fenwick Island Area**

**Use of Existing Wastewater Infrastructure Agreement – IUA 1257  
Justice Property, Millville Area**

**Motion Adopted: 5 Yeas**

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

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

**Adminis-  
trator's  
Report**

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

**1. Delaware State Police Activity Report**

**The Delaware State police year-to-date activity report for July 2024 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 195 troopers assigned to Sussex County for the month of July.**

**2. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, Osprey Point – Phase 3C (Construction Record) received Substantial Completion effective August 16, 2024.**

**3. Ronald Heck**

**It is with great sadness that we inform you that County Pensioner, Ronald “Ronnie” Heck passed away on Monday, August 19, 2024. Mr. Heck began his career with Sussex County in May 2006 where he worked until May 2015 for a total of 9 years of service. His last position with the County was Public Works Technician II. We would like to extend our condolences to the Heck family.**

**4. Ronald G. McCabe**

**It is with great sadness that we inform you that Ronald G. McCabe passed away on Thursday, August 22, 2024. Mr. McCabe served on the Sussex County Board of Adjustment for 27 years. We would like to extend our condolences to the McCabe family.**

**5. Thomas Berry III**

**Sussex County continues to mourn the loss of County employee and volunteer firefighter Thomas W. Berry III, who was tragically lost, August 13<sup>th</sup> while on the scene of a motor vehicle crash outside Georgetown. Mr. Berry began his career with Sussex County in 2022. He was a Logistics Technician in our Emergency Medical Services division. We would like to extend our condolences to Thomas' family,**

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

**friends, coworkers, and fellow first responders in this difficult time, and we thank the community for the tremendous outpouring in honor of Thomas and his sacrifice.**

**6. Holiday and Council Meeting Schedule**

**A reminder that County offices will be closed on Monday, September 2<sup>nd</sup>, to observe the Labor Day holiday. In addition, Council will not meet on Tuesday, September 3<sup>rd</sup> or Tuesday, September 10<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, September 17<sup>th</sup> at 10:00 a.m.**

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

**Old  
Business/  
Perimeter  
Buffers**

**Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21A , AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 115-37, 115-45, 115-53 AND 115-218 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT".**

**Mr. Robertson explained that there have been substantial discussions related to the Ordinance and public hearings have been held. As a result of the feedback and input from the public and staff, there are several proposed amendments.**

**M 441 24  
Amend Ord.  
24-03**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to amend lines 39-44 of the highlighted version to revise the current definition of "Clearing or Cleared" to be streamlined. Delete the existing definition and replace it with: "The removal of trees and other vegetation by any means. 'Clearing' or "cleared" does not include selectively removing dead or diseased trees or invasive species".**

**Motion Adopted: 5 Yeas**

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

**M 442 24  
Amend Ord.  
24-03**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend line 159 of the highlighted version to add "forest inventory" before "tree survey" so that it now states "a forest inventory/tree survey".**

**Motion Adopted: 5 Yeas**

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

**M 443 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line  
**Amend Ord.** 159 of the highlighted version to add “groupings of trees or” before  
**24-03** “individual tress”. Groupings of trees may be determined to have a high  
habitat value in addition to individual trees. At the end of this sentence, insert  
the phase “within the Perimeter Buffer and Perimeter Buffer Protection  
Area” so that it is clear what areas are covered by the Forest Assessment.

**Motion Adopted:** 5 Yeas

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

**M 444 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line  
**Amend Ord.** 163 of the highlighted version to add a new definition of “Forest Assessment  
**24-03** Report”: “A report detailing the findings of a Forest Assessment prepared  
and certified by a licensed landscape architect, certified arborist, or licensed  
forester or a forester designated by the Society of American Foresters as a  
“certified forester”.

**Motion Adopted:** 5 Yeas

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

**M 445 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 228 of the highlighted version to add a new sentence that better defines  
**24-03** the purpose of the Perimeter Buffer within its definition: “The Perimeter  
Buffer shall function to filter views from and into a subdivision in such a  
manner that improves the screening than if no landscaping was provided”.

**Motion Adopted:** 5 Yeas

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

**M 446 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 236 of the highlighted version to change the word “prepared” to  
**24-03** “submitted” so that the definition of the Perimeter Buffer Landscape Plan  
now states, “A plan submitted by a developer depicting compliance with the  
Perimeter Buffer and Perimeter Buffer Protection Area ...”.

**Motion Adopted: 5 Yeas**

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

**M 447 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend lines**  
**Amend Ord. 240 and 575 of the highlighted version to delete the reference to “certified**  
**24-03**           **nursery professional”.**

**Motion Adopted: 5 Yeas**

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

**M 448 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend line**  
**Amend Ord. 315 of the highlighted version to insert “as well as shrubs” after the tree**  
**24-03**           **planting requirement. The number of shrubs is undefined, but this clarifies**  
**that the buffer areas are not limited to just the required trees and other**  
**plantings can and should occur there.**

**Motion Adopted: 5 Yeas**

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

**M 449 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord. line 318 of the highlighted version regarding the anticipated height of trees**  
**24-03**           **planted within the Perimeter Buffer, change the reference to “obtain a**  
**minimum height of ten feet” to “shall be a species that typically achieves a**  
**height of at least ten feet ...”.**

**Motion Adopted: 5 Yeas**

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

**M 450 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord. line 320 of the highlighted version, there should be more clarity in the Code**  
**24-03**           **that new vegetation needs to be planted throughout the buffer area and not**  
**just within ten 10 feet of the 30-foot width of it. It already requires staggering,**  
**but we have seen developments try to manipulate this requirement. To**  
**further clarify this, add a new phrase “throughout the entire width of the**  
**Perimeter Buffer” into the existing sentence so that it now states that the trees**  
**shall be “...arranged in a staggered and natural manner throughout the**

**entire width of the Perimeter Buffer to effectively achieve a visual landscaped screening which will filter views from and into the subdivision”.**

**Motion Adopted: 5 Yeas**

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

**M 451 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **lines 341 and 344 of the highlighted version to change the reference from**  
**24-03**          **“Forest Assessment” to “Forest Assessment Report”.**

**Motion Adopted: 5 Yeas**

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

**M 452 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend lines**  
**Amend Ord.**   **341 through 344 of the highlighted version to delete the phrase “prepared**  
**24-03**          **and certified by a licensed landscape architect, certified arborist, certified**  
**nursery professional, or licensed forester or forester designated by the**  
**Society of American Foresters as a “certified forester”. This phrase becomes**  
**unnecessary since it will now be included within the new definition of “Forest**  
**Assessment Report”.**

**Motion Adopted: 5 Yeas**

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

**M 453 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **line 361 of the highlighted version, the CIB wanted to be clear that invasive**  
**24-03**          **species should not be introduced into the Buffer Areas, and that invasive**  
**species can be removed from the Buffer Areas. To accomplish this, relocate**  
**the sentence “Removal of any invasive species from the Woodlands is**  
**permitted” to a new item 12 at the end of the current list so that there is a**  
**new §99-21A.B.12 that states “12. Removal of any invasive species from the**  
**Perimeter Buffer or Perimeter Buffer Protection Area is permitted”. For that**  
**same reason, insert “(with the exception of the removal of invasive species)”**  
**after “Perimeter Buffer Protection Area”, at line 369 of the highlight version**  
**so that it is clear that the removal of invasive species can occur even though**  
**no other disturbance is allowed. And for the same reason, at line 480 of the**  
**highlighted version add the term “non-invasive” before the reference to**  
**“ornamental grasses and/or trees” in the language that allows design**  
**flexibility along the road frontage.**

**Motion Adopted: 5 Yeas**

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

**M 454 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **lines 372 through 373 of the highlighted version to insert “or the Perimeter**  
**24-03**           **Buffer Protection Area” after “Perimeter Buffer” in the existing sentence.**  
                 **This makes it clear that no disturbance can occur in either the Buffer Area**  
                 **or the Protection Area. Also, add a new sentence at the end of the section:**  
                 **“Permitted stump removal shall only occur by stump grinding that does not**  
                 **disturb the surrounding area or vegetation”.**

**Motion Adopted: 5 Yeas**

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

**M 455 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **lines 392 through 394 of the highlighted version, If the Buffer areas are**  
**24-03**           **cleared during the 5-year lookback period, the replanting requirements**  
                 **should be more clear to confirm that in addition to the greater tree density**  
                 **that is required, they still must conform to the percentages and sizes at the**  
                 **time of planting. The existing sentence at part (e) that currently states, “The**  
                 **planted Perimeter Buffer and new Woodlands shall meet the tree and shrub**  
                 **requirements of this Chapter” should be replaced with a new one that states:**  
                 **“The planted Perimeter Buffer and new Woodlands shall comply with the**  
                 **sizes and percentages required by §99-21A.A2 and 3.”.**

**Motion Adopted: 5 Yeas**

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

**M 456 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord**   **line 399 of the highlighted version to replace the reference to the “Planning**  
**24-03**           **and Zoning Commission” as the entity reviewing the replacement plantings**  
                 **after a timber harvest to “the Director”.**

**Motion Adopted: 5 Yeas**

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

**M 457 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **line 429 of the highlighted version, CIB suggested that in addition to topsoil**  
**24-03**           **or grass as the ground covering within the Buffer, “or wildflowers” should**  
                 **also be permitted. So, insert the word “wildflowers” after “suitable grass**  
                 **mix” in this sentence.**

**Motion Adopted:      5 Yeas**

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

**M 458 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **line 437 of the highlighted version to replace the reference to “Woodlands”**  
**24-03**           **with “Perimeter Buffer and Perimeter Buffer Protection Area”. This just**  
                 **clarifies the correct terms to be used.**

**Motion Adopted:      5 Yeas**

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

**M 459 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **line 467 of the highlighted version, for consistency with other parts of the**  
**24-03**           **Ordinance, delete the phrase “for any trees, shrubs or existing woodlands”**  
                 **and add language confirming the duration of the developer’s guaranty so that**  
                 **the note required to guaranty the full cost of replacement now states, “(f) a**  
                 **note confirming that a developer guarantees the full cost of replacement of**  
                 **the Perimeter Buffer for two years after the determination of substantial**  
                 **completion in according with Section 99-31.”**

**Motion Adopted:      5 Yeas**

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

**M 460 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**   **line 479 of the highlight version, during the Council hearing there was**  
**24-03**           **concerns about the types of buffer alternatives that could be used along the**  
                 **frontage of a development. To address this concern, delete the word “fences”**  
                 **and replace it with the phrase “ornamental fences that are not used as**  
                 **screens” and delete the word “walls”.**

**Motion Adopted:      5 Yeas**



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

**M 461 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 490 of the highlight version, during the Council hearing, there were  
**24-03** photographic examples of fencing or other landscaping that was installed  
along a development's road frontage where that frontage was not the same  
frontage where the development's entrance existed. I.e., the back side of a  
subdivision that shares a boundary with a road but has no entrance there.  
That is not the intention of this section that allows design flexibility (with the  
Commission's approval) at subdivision entrance. To clarify this, add a new  
sentence at the end of this section that states "This authorization shall only  
apply to a subdivision's roadway frontage where its entrance is located. All  
other roadway frontages shall comply with the requirements of subsections  
A, B and C above as applicable".

**Motion Adopted:** 5 Yeas

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

**M 462 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 503 of the highlight version (Timing of buffer installation): There was a  
**24-03** lot of discussion about when the buffer must be installed in relation to other  
work going on in a subdivision. There is not a so-called "drop dead date"  
current Ordinance; instead, there are limitations on moving forward in the  
development until prior buffers are installed (no building permits until  
buffers are installed in the given phase; cannot move to the next phase until  
the buffers are installed in the prior phase). The current Code in the  
definition at part F (which is being replaced) stated: "The forested and/or  
landscaped buffer shall be installed within 18 months from the date site work  
is authorized to commence, as documented by a notice to proceed letter from  
the Commission". This timeframe and protection to adjacent properties is  
not a concern where there are existing woodlands, since 50 feet of woodlands  
along the property boundary cannot be disturbed. It is only applicable when  
new plantings are required. Staff has suggested including the following  
language to create a clear deadline for new planting adjacent to existing or  
approved homes. To address this, add the following sentence at Line 503 of  
the highlighted version "The portion of any non-Woodland Perimeter Buffer  
within the entirety of the development that is adjacent to other existing or  
approved dwellings or lots shall be planted in accordance with the  
requirement of §99-21A.A and C within 12 months of the issuance a Notice  
to Proceed for the first phase of the development".

**Motion Adopted:** 5 Yeas

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

**M 463 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** lines 516-517 of the highlighted version, the developer should be required to  
**24-03** remove and replace any dead, diseased or dying trees within the Buffer Areas  
prior to the conclusion of the two-year guaranty period. To confirm this, add  
the phrase “removal and replacement of any dead, dying or diseases trees”  
in this sentence so that it now states, “The developer shall be responsible for  
the removal and replacement of any dead, dying or diseased trees and for the  
removal form the site of all stakes, guy wires ....”.

**Motion Adopted:** 5 Yeas

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

**M 464 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** lines 535-537 of the highlight version, for consistency with other parts of the  
**24-03** Ordinance and similar existing provisions in the Code, eliminate reference to  
the turnover to the HOA, which the County neither tracks nor has control  
over by revising the language about bonding timeframes so that it now states,  
“The bonds for the Perimeter Buffer shall thereafter remain in place until  
two years after the determination of substantial completion in accordance  
with Section 99-31.”

**Motion Adopted:** 5 Yeas

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

**M 465 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 566 of the highlight version, for clarity and consistency, insert “Perimeter  
**24-03** Buffer” after the word “Woodlands”.

**Motion Adopted:** 5 Yeas

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

**M 466 24** A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend  
**Amend Ord.** line 572 of the highlighted version, delete the phrase “in the form of newly  
**24-03** created Woodlands”. The specific requirements of the remedy following

**damage or removal of trees is defined in the subsections that follow, so this phrase is not necessary.**

**Motion Adopted: 5 Yeas**

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

**M 467 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend**  
**Amend Ord.**      **lines 904-913 of the highlighted version, there were questions and comments**  
**24-03**            **during the Council hearing about whether the buffer requirements apply to**  
**residential conditional uses or developments in the C-4 Zoning District. This**  
**is currently addressed in the Code in Section 115-218. However, it is currently**  
**only discretionary if conditioned as part of an approval of a development.**  
**This should instead be a mandatory requirement. At line 904 of the**  
**highlighted version, delete this entire sentence so that it is clear that**  
**compliance with the Buffer requirements are mandatory so that it now states**  
**“E. Any conditional use for attached or detached single-family or multi-**  
**family dwellings; a residential planned community; or the permitted**  
**residential portion of a development in any zoning district shall comply with**  
**the requirements of §99-21.A.”**

**Motion Adopted: 5 Yeas**

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

**M 468 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt**  
**Adopt**           **Ordinance No. 3038 entitled “AN ORDINANCE TO AMEND CHAPTER 99,**  
**Ordinance**      **ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27,**  
**No. 3038/**       **99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21A , AND**  
**Ord. No. 24-**   **CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS**  
**03**               **115-20, 115-25, 115-29, 115-37, 115-45, 115-53 AND 115-218 REGARDING**  
**PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT” as**  
**amended by this Council.**

**Motion Adopted: 5 Yeas**

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

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

**M 469 24**      **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000**  
**Town      of**      **(\$1,000 from Mrs. Green's Councilmanic Grant Account) to the Town of**  
**Greenwood**      **Greenwood for their 2024 Greenwood Day event.**

**Motion Adopted:      5 Yeas**

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

**M 470 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500**  
**Unique**      **(\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Unique Minds**  
**Minds**      **Changing Lives Inc. for their Community Support Center.**  
**Changing**  
**Lives Inc .**      **Motion Adopted:      5 Yeas**

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

**M 471 24**      **A Motion was made by Mr. Scheaffer, seconded by Mr. Hudson to give \$5,000**  
**Boys Scouts**      **(\$5,000 from Countywide Youth Grant Account) to Boys Scouts of America**  
**of America**      **Delmarva Council for their Sussex County 2024 Distinguished Citizen Award**  
**Event.**

**Motion Adopted:      5 Yeas**

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

**M 472 24**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500**  
**Ocean**      **(\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Ocean Waves**  
**Waves Guild**      **Guild for their Quilts of Valor program.**

**Motion Adopted:      5 Yeas**

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

**Proposed**      **Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE**  
**Ordinance**      **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**Introduc-**      **AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT**  
**tion**      **OF CONDITION "C" CONTAINED WITHIN CONDITIONAL USE NO.**  
**2414 (ORDINANCE NO. 3031) REGARDING THE ALLOWANCE OF**  
**MAINTENANCE/REPAIR ON COMPANY EQUIPMENT/VEHICLES**  
**AND THE INCLUSION OF FUEL TANKS TO BE LOCATED ON A**

<b>Proposed Ordinance Introduction</b> <b>(continued)</b>	<p><b>CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.72 ACRES, MORE OR LESS” filed on behalf of Justice Boyz Properties, LLC.</b></p> <p><b>Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.86 ACRES, MORE OR LESS” filed on behalf of Samuel J. Petersheim and Glenda G. Petersheim.</b></p> <p><b>Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR MEDIUM RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.53 ACRES, MORE OR LESS” filed on behalf of James Yerkie, II.</b></p> <p><b>Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NAIL SALON BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.55 ACRE, MORE OR LESS” filed on behalf of Tayra Trinidad.</b></p> <p><b>Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND FARMERS MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.3 ACRES, MORE OR LESS” filed on behalf of H &amp; M Johnson Farms, LLC.</b></p> <p><b>The Proposed Ordinances will be advertised for a public hearing.</b></p>
<b>CC Comments</b>	<p><b>There were no Council Member comments.</b></p>
<b>M 473 24 Go Into Executive Session</b>	<p><b>At 1:25 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to recess the Regular Session and go into Executive Session to discuss matter relating to pending &amp; potential litigation and land acquisition.</b></p> <p><b>Motion Adopted: 5 Yeas</b></p> <p><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea;</b></p>

**Mr. Vincent, Yea**

**Executive Session**      **At 1:28 p.m. an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to pending & potential litigation and land acquisition. The Executive Session concluded at 1:45 p.m.**

**M 474 24 Reconvene**      **At 1:48 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to come out of Executive Session back into Regular Session.**

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

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

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

**Rules**      **Mr. Robertson read the rules and procedures for Public Hearings.**

**Public Hearing/  
CU2522**      **A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS” (property lying on the west side of Cart Branch Road [S.C.R. 583A], northwest of the intersection of Cart Branch Road [S.C.R. 583A] and Adams Road [S.C.R. 583]) (911 Address: 14326 Cart Branch Road, Greenwood) (Tax Map Parcel: 530-14.00-17.00) filed on behalf of Delaware Electric Cooperative.**

**Mr. Robertson left the room; Mr. Rutt stepped in to assist with the hearing.**

**The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 3 recommended conditions as outlined.**

**Jamie Whitehouse, Planning & Zoning Director presented the application.**

**The Council found that Ms. Dana Dunphy from Century Engineering was present on behalf of the Applicant Delaware Electric Cooperative (DEC); that the application is to allow DEC to expand their headquarters site located on Cart Branch Road; that they are proposing two new buildings with gravel and asphalt paving; that they are aware of the conditions given by the Planning & Zoning Commission.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 475 24  
Adopt  
Ordinance  
No. 3039/  
CU2522**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3039 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF UTILITY OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.85 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:**

- 1. This conditional use is for the expansion of the Delaware Electric Cooperative’s facility near Greenwood. This is the location of the Cooperative’s headquarters facility, which includes office space, warehouse and storage space, equipment storage, and vehicular parking.**
- 2. Over the years the Cooperative’s service needs and network have expanded as Sussex County has also expanded. As a result, the Cooperative has determined that its headquarters operations must also expand to keep pace with this growth. This conditional use is a reasonable expansion of the existing use at this location.**
- 3. This conditional use for the expansion of the Cooperative’s headquarters is necessary to maintain and improve its electrical operations and service for current and future residents of Sussex County.**
- 4. This location is designated as being within the “Industrial Area” designation on the County Comprehensive Plans Future Land Use Map. The expansion of the Cooperative’s headquarters facility is appropriate in this Area according to the Plan.**
- 5. The Conditional Use to expand the Cooperative’s headquarters facility is of a public nature, and it promotes the health, safety and welfare of the residents of Sussex County.**
- 6. The expansion of the Cooperative’s existing headquarters facility will not adversely affect neighboring properties or roadways.**
- 7. No parties appeared in opposition to this application.**
- 8. This Conditional Use is subject to the following conditions:**
  - a. The perimeter of the site shall be fenced with privacy slats. The location and type of fencing shall be shown on the Final Site Plan.**
  - b. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
  - c. 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: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ2009 &  
CU2440**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50 mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00) filed on behalf of Double H Development, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 11 reasons stated and subject to the 18 recommended conditions as outlined.**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” (property lying on the southeast side of Lighthouse Road [Rt. 54] approximately 0.50-mile northeast of Williamsville Road [S.C.R. 395]) (911 Address: 35090 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-19.00-47.00) filed on behalf of Double H Development, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons as outlined.**

**Jamie Whitehouse, Planning & Zoning Director presented the applications.**

**The Council found that Mr. David Hutt. Esq., spoke on behalf of the application; that also present was Bobby Horsey, Cliff Mumford with Davis, Bowen & Freidel and Tom Noble, Professional Wetland Scientist; that there is a CVS, McDonald’s, a water tower, Sound United Methodist Church, Breasure’s Auto, Breasure’s carpet store are all in the area of this property; that Bay Knolls and Megee Farms in the area of the property; the property totals 37.5 acres which is currently used for agricultural purposes; that as was indicated, are two applications, a change of zone application seeking to**



**Public  
Hearing/  
CZ2009 &  
CU2440  
(continued)**

change the designation of that property on the county zoning map from agricultural residential district to the medium density residential district and the second application is a multifamily conditional use application that seeks to have 108 single family homes in a multifamily use, which is a condominium style single family home project; that the 2020 state strategies maps that are promulgated by the Office of State Planning Coordination has the property centered on the image and is primarily within a Level 3 area; that the Office of State Planning Coordination says that growth is anticipated in a Level 3 area; that the property is within the County's growth area; that Table 4.5-2 within Chapter 4 identifies categories on the Future Land Use Map and Zoning Districts that are appropriate; that Chapter 4 states that coastal areas are areas that can accommodate development provided special environmental concerns are addressed, a range of housing types should be permitted in coastal areas, including single family homes, townhomes and multi-family units; that this application certainly would meet that stated permitted purpose; that there is a wide range of various zoning classifications that exist along this area of Route 54; that in addition to all those various zoning classifications, the County Staff Memo identified 29 conditional uses within a one mile radius of this site; that the property that to the East is owned by the Tull family and is in an agricultural preservation easement; that this easement has been designated as the Country Rooster expansion of the Williamsville District.

Mr. Cliff Mumford an engineer with Davis, Bowen & Friedel spoke on behalf of the application; that the property has frontage along Lighthouse Road to the north, Route 54; that there are two DNREC tax ditches; that the Peach Creek Main defines the southern property boundary with an 80-foot right of way; that the western boundary follows the edge of the woods line and runs adjacent with Americana Bayside Melson and there is a right away with Lighthouse Road that completes the loop around the property boundary; that there is approximately 8.3 acres of existing woods with the hatched area inside the woods that are the wetlands that were delineated by Tom Noble; that those wetlands are not classified as resources as defined by Sussex County Code because they are not contiguous to tidal waters or wetlands, and they do not include a surface water connection to adjacent wetlands; that the proposed neighborhood will have an entrance on Lighthouse Rd. (Route 54), which is classified as a major collector roadway by DelDOT; that Lighthouse Rd. includes 12 foot travel lanes and eight foot shoulders, which meets DelDOT standards for a major collector; that the entrance has been sighted to align with New Road which intersects Lighthouse Road from the North; that left and right turn lanes will be provided into the site along with a left turn lane onto New Road based on DelDOT's requirements; that regarding their due diligence with DelDOT, they have submitted an SLER to which they responded that the development site traffic would have a minor impact on area roadways and the project is eligible to pay an area wide study fee in lieu of performing a TIS; that the project is not within a TID; that a presubmittal meeting was held with DelDOT on June 10, 2024; that an area wide study fee memo was issued by DelDOT on June 25, 2024; that at the

**Public  
Hearing/  
CZ2009 &  
CU2440  
(continued)**

entrance, a 10 foot wide shared use path will be along the property frontage; that the closest house will be 70 feet from the right of way of Route 54, and all but two houses at the entrance are greater than 100 feet from any adjacent property lines; that the internal streets will include concrete, curb and gutter and a closed drainage system, 5 foot wide sidewalk on both sides of the streets; that the road and drainage will be designed to meet the requirements of the Sussex County Engineering Department and will be subject to their review and approval; that a Community Center with a square footage of at least 2,000 square feet and a pool with a minimum water surface area of 1,000 square feet; that the tax ditch's proposed alignment will relocate the Perch Creek Prong 4 tax ditch and it will connect to Perch Creek Main tax ditch; that the tax ditch right of ways will be maintained by a DNREC tax ditch section in a meadow like manner; that no structures are proposed within the tax ditch right of ways other than the stormwater outfall pipes; that the western boundary the project proposes a 30 foot landscape and wooded buffer in areas where one does not already exist; that the western boundary line is existing woods which will remain and supplement that existing woods line with a 30 foot landscape buffer to the right away or the permanent easement; that 5.5 acres will be preserved, which represents roughly 65% of the existing woods; that the wooded wetlands will not be impacted and a 30 foot voluntary buffer will be provided around them; that open space provided throughout the site includes amenity areas, existing woods, voluntary landscape and wetlands buffers, tax ditch right of ways and stormwater areas that total roughly 18 acres or 49% of the site; that stormwater management will be provided to meet the requirements of Sussex Conservation District; that the project is in tier one of the Sussex County Unified Sanitary Sewer District and they issued a sewer service concept evaluation to demonstrate capacity and provide a connection point near the entrance for sanitary sewer; that's there's an existing gravity sanitary sewer manhole in this location at our entrance that will connect to water service which will be provided by Artesian water company and electricity will be provided by Delaware Electric Cooperative; that the project was presented to PLUS on February 7, 2023; that an environmental assessment and public facility report is included in the booklet provided.

Mr. David Hutt stated that the change of zone application to the MR medium density residential district is the nature and character of this area and multifamily dwellings are a conditional use within the MR district; that the purpose of a conditional use as it's set forth in the code is to provide items that are of public or semipublic character that are essential and desirable for the general convenience and welfare of the county and then being able to place certain limitations and conditions on those; that the density that's proposed is slightly lower than those neighboring, with 108 units, is 2.89 units per acre; that Americana, Bayside, the density is 3.35 units to the acre and that excludes the apartments and the Americana Melson portion of it, the density of that is 3.67 units to the acre, and Bay Knolls community has a density of 3.87 units to the acre; that the Bay Knolls project came in four separate applications at two different time periods; that in January of 2020,

**Public  
Hearing/  
CZ2009 &  
CU2440  
(continued)**

County Council adopted Ordinance No. 2700 which adopted CZ1986 and CU2197 was adopted by Ordinance No. 2701; that was for the first 13 acres of the Bay Knolls future community; that in September of 2021, County Council adopted Ordinance No. 2803 and Ordinance No. 2804 which is CZ1945 and CU2292 for about 8 acres of the site; that those applications are identical to the pair of applications being presented today; that the Comprehensive Plan discusses when medium and higher density are appropriate; that four of the factors for higher density is appropriate include when there is central water and sewer, need a significant number of commercial uses and employment centers, whether or not it is keeping in character of the area, whether it is situated along a main road or near a major intersection; that the property is bordered by two tax ditches along the eastern and southern boundary; that there are significant tax ditch right of ways that exist; that the tax ditch on the eastern boundary has a 80-foot right-of-way from the top of bank; that a voluntary 30-foot buffer will be provided around the wetlands; that this type of planning that the Comprehensive Plan had in mind when discussing Coastal Areas; that there would be a condominium association for the operation and maintenance of the Community properties and amenities; that what's proposed is that the tax ditch right of ways be maintained in a Meadow like manner consistent with DNREC's requirements for tax ditches and on the eastern, western and southern boundary it would be your typical 30 foot wide perimeter, wooded or landscape buffer; that the Planning Commission's recommendation of CU2440 conditions contained Conditions A-R; that one of those conditions, Condition B was requested a modification; that the purpose of this modification is to make clarification for when the applicant comes through for final site plan approval; that the concern is that the successful relocation may indicate that the applicant has to physically move that tax ditch as the condition of approval; that the proposed language will make it clear that the applicant has to receive approval from DNREC to relocate it which would allow final site plan be granted by the Planning Commission and then construction will occur.

Public comments were heard.

Mr. Ken Schroyer questioned the layout of the houses.

The Public Hearing and public record were closed.

**M 476 24  
Adopt  
Ordinance  
No. 3040/  
CZ2009**

A Motion was made by Mr. Hudson seconded by Mr. Rieley to Adopt Ordinance No. 3040 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS" the reasons given by the Planning & Zoning Commission as follows:

**M 476 24  
Adopt  
Ordinance  
No. 3040/  
CZ2009  
(continued)**

1. This application seeks a change in zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available, and the site is in the vicinity of other properties with the MR zoning designation and higher density residential developments.
2. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.
3. The property in the vicinity of a commercially zoned parcel and there are MR-zoned properties in the immediate area. This rezoning is consistent with other zoning and land uses in the area.
4. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a “Growth Area” according to the Plan. MR Zoning is appropriate in this Area according to the Plan.
5. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.
6. The future residential development of this property will require the review and approval of the site plan by Sussex County, the Sussex Conservation District for stormwater management and design. DelDOT for roadway improvements, DNREC for environmental concerns and other State and local agencies with jurisdiction over the project.
7. For all of these reasons, MR zoning is appropriate for this site.

**Motion Adopted: 5 Yeas**

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

**M 477 24  
Amend  
Condition B/  
CU2440**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to amend Condition B to read “There is an existing tax ditch with a right of way that crosses through the eastern portion of this site. This approval is conditioned upon the Applicant receiving approval from DNREC to relocate that Tax Ditch and its right of way to a location along the boundary of the site as proposed on the Preliminary Site Plan and keeping the relocated Tax Ditch and its right of way entirely within this site and not upon lands of other ownership”.

**Motion Adopted: 5 Yeas**

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

**M 478 24  
Adopt  
Ordinance  
No. 3041/  
CU2440**

**A Motion was made by Mr. Hudson seconded by Mr. Rieley to Adopt Ordinance No. 3041 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (108 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.52 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:**

- 1. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer is available. This conditional use application for multi-family units appearing as single-family structures is in compliance with the purposes of the MR zone.**
- 2. Both central water and central sewer will be available to this site.**
- 3. The property is in the vicinity of other properties with a variety of business, commercial and residential uses. The site is also adjacent to two sections of the Americana Bayside development, being the Melson Property at 3.67 units per acre and Phase 4 and 6B at 3.35 units per acre. Across the road from Americana Bayside is Bay Knolls with a density of 3.87 units per acre. This conditional use at approximately 2.89 units per acre is consistent with other zoning, uses and multi-family developments in the area.**
- 4. The eastern boundary of the Property is adjacent to an Agricultural Easement area that is identified as the “Country Rooster Expansion of the Williamsville District.” No lots are located closer than 100-feet to the Agricultural Easement Area.**
- 5. The Property contains approximately 2.477 acres of non-jurisdictional, non-tidal wetlands all of which shall be protected with a thirty-foot (30’) buffer as shown on the Preliminary Site Plan. The Army Corps of Engineers issued a Non-Permit Required Letter and an Approved Jurisdictional Determination for the Property on October 12, 2023.**
- 6. Environmental Resource Insights and Davis Bowen & Friedel, Inc. completed a review of the Property pursuant to Section 115-193 of the County Zoning Code and determined that the Property does not contain “Resources” as defined by the County Code that require a Resource Buffer Management Plan. In addition, an Environmental Assessment has been provided as part of the application materials.**

**M 478 24  
Adopt  
Ordinance  
No. 3041/  
CU2440  
(continued)**

- 7. DelDOT has reviewed the proposed project and has determined that the development's traffic impact will be Minor. When DelDOT determines that traffic impact will be minor, a project is eligible to pay an Area Wide Study Fee instead of obtaining a Traffic Impact Study. Paying this fee does not eliminate the developer's obligation to construct or pay for offsite road improvements that are required by DelDOT.**
- 8. As shown on the Preliminary Site Plan, approximately 18 acres, or 49% of the site, will remain as open space. Within that open space, approximately 5 acres or 65% of the existing woodlands will also be preserved.**
- 9. The proposed multi-family conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
- 10. The proposed use is consistent with the County's Comprehensive Land Use Plan. It is in the Coastal Area according to the Plan, which is a Growth Area. The Plan states that medium and higher densities can be appropriate where, like here, there are features such as central water and sewer and nearby commercial uses and employment centers. The Plan also states that a range of housing types should be permitted in the Coastal Area, including single family homes, townhouses and multifamily units.**
- 11. There is no evidence that this project will adversely affect the neighboring properties, area roadways or community facilities.**
- 12. This recommendation is subject to the following conditions:**
  - a. There shall be no more than 108 Units within the development.**
  - b. There is an existing tax ditch with a right of way that crosses through the eastern portion of this site. This approval is conditioned upon the Applicant receiving approval from DNREC to relocate that Tax Ditch and its right of way to a location along the boundary of the site as proposed on the Preliminary Site Plan and keeping the relocated Tax Ditch and its right of way entirely within this site and not upon lands of other ownership.**
  - c. All entrances, intersections, roadways and multimodal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.**
  - d. The active recreational amenities for the project shall include a community center/clubhouse with a minimum square footage of 2,000 square feet and a pool with a minimum water surface area of 1,000 square feet. Both of these amenities shall be completed in compliance with Section 115-194.5 of the Zoning Code.**
  - e. Central sewer shall be provided to the development by Sussex County. The developer shall comply with all requirements and specifications of the Sussex County Engineering Department.**
  - f. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**

**M 478 24  
Adopt  
Ordinance  
No. 3041/  
CU2440  
(continued)**

- g. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- h. Interior street design shall comply with or exceed Sussex County standards. In addition, there shall be sidewalks on both sides of all streets with interconnection between the sidewalks and DelDOT-mandated multi-modal paths.**
- i. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographical Information Office.**
- j. The Applicant shall consult with the local school district's transportation manager to determine if a school bus stop is appropriate. The location of such a bus stop shall be shown on the Final Site Plan.**
- k. A forested and/or vegetated buffer strip that is at least thirty feet wide shall be maintained or installed along the western boundary of the property except where it would interfere with the right-of-way for the Perch Creek Main tax ditch. This buffer shall utilize existing forest or similar vegetation where it exists. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. The tax ditch rights-of-way shown on the Preliminary Site Plan shall be maintained in a meadow-like manner consistent with DNREC's requirements for tax ditches. Along the western boundary and when adjacent to trees, silt fencing shall be located at least 10 feet from the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify this "Limit of Disturbance" to prevent disturbance of the buffer area. Signage identifying this perimeter buffer as a "non-disturbance area" shall be installed along the buffer at 300-foot intervals.**
- l. Approximately 49% of the site shall remain as open space, which shall include the preservation of approximately 65% of the existing woods on the site.**
- m. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 6:00 p.m., Monday through Friday and between 8:00 a.m. and 2:00 p.m. on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.**
- n. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas and the woodlands that must be preserved.**
- o. The Applicant shall form a Condominium Association that shall be responsible for the maintenance of all interior roadways and**

**M 478 24  
Adopt  
Ordinance  
No. 3041/  
CU2440  
(continued)**

**parking areas, buildings, buffers, stormwater management areas, recreational amenities and open space.**

- p. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- q. 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.**
- r. The Final Site Plan shall depict or note these conditions of approval and it shall be subject to the review and approval of the Sussex Planning & Zoning Commission.**

**Motion Adopted: 5 Years**

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

**Public  
Hearing/  
CU2518**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” (property lying on the southeast side of John J. Williams Highway [Rt. 24], on the southwest side of Mulberry Knoll Road [S.C.R. 284], and the southeast corner of the intersection of John J. Williams Highway [Rt. 24] and Mulberry Knoll Road [S.C.R. 284]) (911 Address: N/A, Rehoboth Beach) (Tax Map Parcel: 334-12.00-108.00) filed on behalf of V&M, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of July 24, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the recommended revised condition as outlined.**

**Jamie Whitehouse, Planning & Zoning Director presented the application.**

**The Council found that Mr. Zach Crouch, of Davis, Bowen & Friedel, spoke on behalf of the applicant that the application is a revision to Condition A of Ordinance 2853, which was approved on May 17, 2022; that the Planning Commission recommended approval with 10 conditions on April 28, 2022; that they went before County Council on May 17, 2022, and the same conditions were approved; that the request is to increase the square footage of the convenience store; that currently, the convenience store is approved to be 5,000 square feet along with an office building of 12,000 square feet; that they are requesting an amendment to Condition. A, to increase the**



convenience store from 5,000 square feet to 5,915 square feet, and to remove the 12,000 square foot office building; that they have received site plan approval.

There were no public comments.

The Public Hearing and public record were closed.

**M 479 24  
Adopt  
Ordinance  
No. 3042/  
CU2518**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3042 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITION A OF ORDINANCE NO. 2853 TO ALLOW FOR A CONVENIENCE STORE WITH FUELING STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” for the reasons and revised condition as given by the Planning & Zoning Commission as follows:

1. This application seeks an amendment to Condition A of Ordinance No. 2853, which permitted a convenience store with fueling stations and a separate office building. Condition A limited the size of the convenience store to 5,000 square feet and the office building to 12,000 square feet.
2. The existing Conditional Use has received preliminary and final site plan approval.
3. The applicant seeks to delete the office building from the conditional use, but increase the size of the convenience store to 5,915 square feet, or 915 feet more than what is currently permitted under Condition A.
4. Because this is an overall reduction in the intensity of the uses on this property, it is an appropriate amendment to Ordinance No. 2853 and it will lessen any impact of the use on area roadways and nearby properties and uses.
5. For all of these reasons, Condition A of Ordinance No. 2853 should be amended to state, “A. The use shall be for a convenience store that does not exceed 6,000 square feet in size with fueling stations.”
6. The Final Site Plan shall be amended to reflect this amendment.

**Motion Adopted: 5 Yeas**

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

**Public  
Hearing/  
CZ2008**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A

**Public  
Hearing/  
CZ2008  
(continued)**

**CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS” (property lying on the east side of Muddy Neck Road [S.C.R. 361], at the intersection of Muddy Neck Road [S.C.R. 361] and Butler Boulevard, approximately 200 feet north of Parker House Road [S.C.R. 362]) (911 Address: 37985 Muddy Neck Road, Ocean View) (Tax Map Parcel: 134-17.00-6.00) filed on behalf of DTN Properties, LLC.**

**The Planning & Zoning Commission held a Public Hearing on the application on July 24, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined.**

**The Council found that Ms. Mackenzie Peet, of Saul Ewing, spoke on behalf of the applicant; that the applicant received a recommendation of approval from the Planning & Zoning Commission; that this a request to rezone 1/2-acre property designated as tax parcel 134-17.00-6.00 from AR-1 to B-2; that currently there is a produce market located on the site that has been operating since 1968; that the family has continued to operate the market at the site since their purchase in 2019, and they have a couple of satellite vendor stands, one location on Route 26 and one at Middlesex Beach; that they are looking to expand current offerings; that this is consistent with what is happening within the area; that it is located just outside of the Town of Ocean View; that it is located near the intersection of Muddy Neck Road and Route 26; that there are many uses in the area; that there were 219 letters of support submitted into the record; that currently, they are limited to produce; that they are looking to expand the offerings; that this will not affect the parking.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 480 24  
Adopt  
Ordinance  
No. 3043/  
CZ2008**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3043 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRE, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:**

- 1. This property has been in use as a produce market since 1968. It is grandfathered for that use but is limited to produce and farm products. The Applicant has sought a B-2 Zoning to allow the sale of additional items such as meats, cheeses, seafood and other products.**
- 2. B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.**

**M 480 24  
Adopt  
Ordinance  
No. 3043/  
CZ2008**

3. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan.B-2 zoning, and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.
4. This location is centrally located in an area that contains a lot of existing and new low-and medium-density residential development. It will provide a convenient location for B-2 uses on a property that has been used as a market for decades.
5. The rezoning will not adversely affect area roadways or traffic.
6. The rezoning will also not adversely affect nearby properties or property values.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas**

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

**M 481 24  
Adjourn**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to adjourn at 2:58 p.m.**

**Motion Adopted: 5 Yeas**

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

**Respectfully submitted,**

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

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