

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 27, 2022**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 27, 2022, at 10:00 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Douglas B. Hudson</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>
<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 450 22  
Approve  
Agenda**

Mr. Lawson reported that Introduction of Proposed Ordinances can be removed from today's agenda. A Motion was made by Mr. Hudson, seconded by Mr. Rieley, 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 the September 20, 2022 meeting were approved by consensus.

**Corres-  
pondence**

There was no correspondence.

**Public  
Comment**

There were no public comments.

**Sussex  
Sports  
Center  
Foundation  
Presentation**

A presentation was given by Mr. Joseph Schell from the Sussex County Sports Center Foundation. Mr. Schell provided an update on the Sandhill fields and discussed a potential fieldhouse to be constructed on the property. Mr. Schell shared that the Sandhill fieldhouse is considered Phase 2 of the project consisting of a 42,000 square foot building. The building will consist of multi-use sport courts and turf fields for pickleball, soccer, lacrosse, field hockey, etc. The building can also be used as an indoor event location and will be a facility designed for the local community. The estimated cost for the proposed building is \$7.5 million (includes \$500,000 contingency fund). It is estimated that \$5.1 million will come from the

**Sussex  
Sports  
Center  
Foundation  
Presentation  
(continued)**

private sector (including foundations), \$300,000 from the business community and \$2.1 million from the public sector.

Mr. Schell reported that the facility supports Sussex County residents. Currently, the following groups use the fields:

- La Super Liga – 800 members
- Henlopen Soccer Club – 1,300 members
- Oranje Field Hockey Club – 200 members
- Coastal Lacrosse Club – 200 members
- First State Pickleball – 550 members

Mr. Schell discussed what was being planned for the indoor facility and the site location. He also shared tournament information from years 2020 through March 2022 pointing out the economic impact to Sussex County.

Mr. Schell shared and discussed the Sports Center Foundation’s operation statement for years 2021 through 2024. In addition, he discussed financing requirements for the fieldhouse.

There was no action taken by Council.

**M 451 22  
Approve  
Consent  
Agenda**

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

**Use of Existing Sewer Infrastructure Agreement, IUA GP170.03  
Grotto Pizza Corporate Headquarters (West Rehoboth Area)**

**Use of Existing Sewer Infrastructure Agreement, IUA 407-1  
Plover Point (Oak Orchard Area)**

**Motion Adopted: 5 Yeas**

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

**Retirees  
Recognition**

The Council recognized the following employees that are retiring:

**Sherita R. Belle, Purchasing Supervisor, Engineering Department, who is retiring after 30 years and 1 month of service with the County.**

**Holly R. Brittingham, Facility District Manager, Engineering Department, who is retiring after 30 years of service with the County.**

**Mary Catherine Hopkins, Library Director for the Milton Library, who is retiring after 41 years of service with the County.**

**Adminis-  
trator's  
Report**

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

**1. Sussex County Property Taxes Due September 30<sup>th</sup>**

**A final reminder for property owners in Sussex County that September 30<sup>th</sup> is the deadline to pay annual County property tax bills. Payments can be made in person, online, by phone, or by mail. Any payments mailed must be postmarked no later than September 30<sup>th</sup>. Payments made October 1<sup>st</sup> or later will be subject to penalty.**

**This year's tax bills once again feature an easy-to-read format to help taxpayers better understand their bills and payment options. A number of payment options are available for the public's convenience. A tutorial explaining how to view account information and to make payments is available on the County website at <https://www.sussexcountyde.gov/property-tax-portal-tutorial>.**

**Sussex County accepts tax payments by cash, check, money order, and debit or credit cards.**

**2. Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, October 4<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, October 11<sup>th</sup>.**

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

**Third  
Quarter  
Employee  
Recognition  
Awards**

**Karen Brewington, Human Resources Director presented the third quarter employee recognition awards. Mrs. Brewington reported that there were 34 submissions received for the third quarter. The third quarter selections were Ann Lepore from the Planning and Zoning Department and Lindsey Stubbs from the GIS Department.**

**Milton  
Medic 111  
Station  
Lease  
Renewal**

**Robert Schoonover, EMS Manager of Logistics presented a lease renewal for Milton Medic 111 Station for Council's consideration. The request is to extend the lease until a station is built in that area. Mr. Schoonover noted that the rent did increase from \$100 per month to \$200 per month.**

**M 452 22  
Approve**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved that the Sussex County Council approves a lease agreement between CHEER Inc. and Sussex County Council as per the terms and conditions in**

**Milton  
Medic 111  
Station  
Lease  
Renewal**

**the written lease agreement.**

**Motion Adopted: 5 Yeas**

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

**Old  
Business/  
CU2300**

**Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented Conditional Use No. 2300 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS” filed on behalf of MRBP, LLC (property lying on the southwest side of McCary Road [S.C.R. 385], approximately 857-ft south of Frankford School Road [S.C.R. 92]) (911 Address: N/A) (Tax Parcels: 533-5.00-38.00 & 41.04)**

**Mr. Whitehouse reminded Council that County Council closed the public record at the last Council meeting held on September 20, 2022 and the additional comments that were received were provided. At that time, Council deferred action for future consideration.**

**M 453 22  
CU2300/  
DENIED**

**A Motion was made Mr. Hudson, seconded by Mr. Rieley to approve a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 56.93 ACRES, MORE OR LESS” filed on behalf of MRBP, LLC for the reasons given by the Planning and Zoning Commission numbered 1-8 with Conditions 9A-T.**

**Mr. Hudson stated that he has given this application a lot of thought. There has been a lot of information provided, and he knew the Planning & Zoning Commission recommended approval of it, with conditions. After considering all of the information in the record, he cannot support a borrow pit in this location.**

**Under our Zoning Code, one of the things we need to consider on any conditional use is “the possible impact ... on neighboring properties” from a proposed use. Here, he believes that this use would have an adverse impact on the nearby properties.**

**While there is a need for dirt, sand, and gravel there are better locations for borrow pits in more rural areas of the County that will not have an impact on homes or community-use properties like the adjacent recreation fields that are next door to this property.**

**M 453 22  
CU2300/  
DENIED  
(continued)**

**Mr. Hudson added that he has concerns that this borrow pit is essentially shoehorned in among homes and a community recreational facility on an irregularly shaped property.**

**This proposed Borrow Pit is also on a small road, and there was testimony in the record that McCary Road would not be able to handle the volume of large truck traffic that would come from the use of this property as a borrow pit over many years. The same is true of Roxana Road and Frankford School Road which all connect to McCary Road. Although the DelDOT information in the record stated that the use would likely only generate fewer than 50 vehicle trips per day, that does not take into account the fact that these would be large, heavy trucks and not ordinary vehicles. Mr. Hudson added that he is not satisfied that McCary Road or other nearby roads can handle what is essentially industrial truck traffic. The neighborhood should not be burdened by this truck traffic and the noise generated by it, either.**

**Our Comprehensive Plan states that “It is important that commercial and industrial development occurs in a scale, intensity, and distance appropriate to residential neighborhoods.” I don’t believe that the proposed borrow pit is in compliance with this standard. It is essentially an industrial mining operation with dredges, heavy equipment and heavy truck traffic on the site and the area roads. This is not compatible with the scale and intensity of this neighborhood.**

**Mr. Hudson added that he also considered the extensive opposition to this application, including a petition with 17 signatures from the community. This opposition came from neighbors or residents who regularly use the roadways that would be directly impacted by this application. Their reasons for opposing this application included concerns about traffic and the volume of truck traffic that would be generated by this use. They also stated concerns about the noise coming from all the equipment that would be used as part of the borrow pit operations. As a result of all of this, they also stated reasonable concerns about the impact of having a borrow pit nearby on their property values. There was also testimony from nearby farmers, who expressed concerns about the impact of the borrow pit on chicken farming operations and water quality. Mr. Hudson finds all of these concerns to be compelling.**

**On the other hand, no parties other than the Applicant and its representatives appeared at the public hearing in favor of the Application.**

**Mr. Hudson added that he understands that the Planning & Zoning Commission recommended approval of this Application. However, based upon the record that we heard at our public hearing and the reasons he explained here, he cannot follow the Commission’s recommendation this time. He also doesn’t feel that the recommended conditions can adequately**

**M 453 22  
CU2300/  
DENIED  
(continued)**

**address the potential adverse impacts of this borrow pit in this location.**

**The application, if approved, would be detrimental to the health, safety and general welfare of neighboring property owners, and pedestrians and motorists in the area for all of the reasons that he has mentioned.**

**Mr. Hudson stated that based on all of these reasons, he is not voting in favor of Conditional Use No. 2300 for a borrow pit.**

**Motion Denied: 5 Nays.**

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

**Old  
Business/  
Affordably  
Priced  
Rental Units**

**Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT 7 (SCRP) PROGRAM”.**

**Mr. Whitehouse reminded Council that an update of this Proposed Ordinance was provided by staff during the meeting of August 9, 2022.**

**Vince Robertson, Assistant County Attorney reviewed possible revisions to the Proposed Ordinance.**

**The first change is in the section relating to eligibility for tenants. Mr. Robertson shared that there was a fair housing concern if it was only limited to Sussex County residents or those that work in Sussex County. Therefore, the proposal is to delete that requirement. However, include new language that states “There shall be a preference given to tenants who have worked or resided in Sussex County for at least one-year preceding application to the SCR P”.**

**Another item that was brought up during this process was to eliminate the requirement that proof be given that adult tenants have not been convicted of a felony and have a satisfactory credit and criminal history. The language has been changed to state that prospective tenants “comply with the criminal and credit history requirements for tenants of all leases within the proposed housing development”.**

**The next revision is located in §72-27 and the Zoning Code. This change is to set a timeframe to do a review to see if the program is working or if there are changes that need to be made. The proposed language states “Sussex County shall commence a comprehensive review of the provisions of this SCR P program on or before January 1, 2028”. Mr. Rieley commented that**

**Old  
Business/  
Affordably  
Priced  
Rental Units  
(continued)**

five years seemed far out; you should be able to see if there is interest and if applications are coming in sooner than that timeframe. Mr. Robertson replied that there are two items to consider. First, if applications will be submitted to build these projects and to see if the percentage of SCRIP units was workable. Mr. Robertson stated that language can be included to state that an annual report be given.

The next change is to reduce the required percentage of SCRIP units within a development. The proposed change is to change it from 30% to 25% of all dwelling units must be SCRIP units.

In addition, it was requested to include the Comprehensive Plan's "Commercial Area" for the list of appropriate areas for these projects.

It was also requested to add flexibility in the DART proximity requirement. It was noted that as of now, Sussex County is not served much by DART other than major roadways. The suggestion was to tie into the types of roadways with the thought that DART will eventually serve those areas. The proposed language reads "The site shall be located within 2,640 feet of a Principal Arterial Road, Minor Arterial Road or Major Collector Road as classified by the Delaware Department of Transportation. In addition, an Applicant should make every effort to coordinate with DART for transit access to and from the site".

The next proposed change is to amend the walking and biking trails design requirement. The request was made to take "shall" out and insert "may" into the last sentence of that section.

Another proposed change received was to amend the setback requirements dealing with height requirements. It is being proposed to add a sentence to that section to read "Provided, however, that if the height does not exceed 42 feet, then the setback described in this subsection shall be reduced from one hundred feet to fifty feet".

There was also a request to amend sidewalk and interconnectivity requirements to state that there must be sidewalks on at least one side of all streets and interconnectivity to adjacent walkway system wherever possible.

The last proposed revision is to delete the primary view requirement.

**Grant  
Request**

Mrs. Jennings presented a grant request for Council's consideration.

**M 454 22  
Autism  
Delaware,  
Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$2,000 (\$400 from each Councilmanic Grant Account) to Autism Delaware, Inc. for their Walk for Autism.

**Motion Adopted: 5 Yeas**

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

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

**Council  
Members'  
Comments**

**There were no Council Member comments.**

**M 455 22  
Go Into  
Executive  
Session**

**At 11:05 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation and land acquisition.**

**Motion Adopted: 5 Yeas**

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

**Executive  
Session**

**At 11:13 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 11:54 a.m.**

**M 456 22  
Reconvene**

**A Motion was made by Mr. Rieley, seconded by Mrs. Green to come out of Executive Session to go back into Regular Session.**

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

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

**E/S Action**

**There was no action relating to Executive Session matters.**

**M 457 22  
Recess**

**A Motion was made by Mr. Rieley, seconded by Mrs. Green to recess until 1:30 p.m. Public Hearings.**

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

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

**M 458 22  
Reconvene**

**At 1:32 p.m., a Motion was made by Mrs. Green, seconded by Mr. Rieley to reconvene.**

**Motion Adopted: 5 Yeas**

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



**Rules**

**Mr. Moore read the procedures for public hearings on zoning matters.**

**Public  
Hearing/  
CU2356**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVS SHALL BE STORED ON THE CAMPGROUND DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS” filed on behalf of Sun Massey’s Landing RV, LLC (property lying on the north side and south side of Long Neck Road, within the Massey’s Landing RV Park) (911 Addresses: 20628 Long Beach Drive, 20636 Long Beach Drive, 32464 Sailfish Drive and 22814 Conch Road, Millsboro) (Tax Parcels: 234-25.00-31.02 & 31.05)**

**The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2022, and on September 8, 2022, the Planning & Zoning Commission recommended approval of the application for the four reasons stated and subject to the recommended condition wording.**

**(See the minutes of the Planning and Zoning Commission dated August 25 and September 8, 2022.)**

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

**The Council found that Mr. David Hutt was present on behalf of the Application; that the resort is managed by the Bluewater Development Corporation; that Jessica and Tony Nichols were present on behalf of Bluewater Development Corporation; that in December of 2014, County Council adopted Ordinance No. 2378; that there was a Conditional Use granted for Massey’s Landing RV Campground with 24 conditions; that Condition No. 8 was modified in 2017; that the change was to modify the date of when the RV resort could be opened; that the request is to change Condition No. 9 which currently reads “The campground/RV park shall remain vacant and no campers or RV’s shall be stored on the campground during the period that the campground is closed.”; that as part of the request for the amendment, there is proposed language for Condition No. 9 which states “The campground/RV park shall remain vacant and no campers or RV’s except Park Model RV’s on approved Park Model campsites shall be stored on the campground during the period that the campground is closed. Park Model RV’s in special flood hazard areas shall meet the requirements of 115-141.5B (3) for manufactured homes.”; that this change would allow the Park Models to remain at the resort when it is closed; that the second sentence in the proposed change essentially refers to moving any Park Models that are in a special flood hazard area; that the**

Public  
Hearing/  
CU2356  
(continued)

final site plan shows the various types of campsites but all 291 campsites are required to be transient; that there are 216 sites where guest bring their RV's, 5 tent sites, and 70 Park Model sites; that the Park Model sites are highlighted on the site plan; that the sites shaded in tan are with the special flood hazard area and the areas shaded in green are outside the flood hazard areas; that pursuant to the conditions at the end of the first weekend in November each year, the process begins of disassembling those campsites and removing the RV's from the property; that the cost for this process is \$150,000 annually; that during the pandemic, a hauler could not be found to facilitate this process and the RV's remained on the site; that a notice of violation was sent to the property owner and that prompted this application; that during the hearing to amend conditions in 2017, there were two items discussed, one was regarding the special flood area and the second was if they remain on the site on a 12-month basis they essentially become Manufactured Homes and that makes them a permanent structure; that the concerns exist when the homes are occupied from April through November; that there would be no danger to individuals as the RV's are not occupied when the park is closed for the season; that Hurricane season ends in November with the most activity from Mid-August through Mid-October; that County Code has a provision that states exactly what is required if an RV is located in a special flood hazard area; that Sussex County Code Section 115-141.4 G subsection 2 states "Recreational vehicles that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of §115-141.5B(3) for manufactured homes or §115-141.6C(4), as applicable."; that those two code sections relate to special flood hazard areas and the second one applies to Coastal High Hazard areas which does not apply here; that the reason for denial in 2017 was best described in reason 4 from the motion; that reason stated the following "Section 115-172.H.9-No permanent structures for human occupation or manufactured homes other than the one used by the park manager are permitted in a campground"; that this section prohibits the conversion of RV's into permanently anchored structures like a manufactured home; that the Code seems contradictory while it should be read to be harmonious; that for a Manufactured Home the minimum square footage is 450 sq. ft. which exceeds the maximum amount of sq. ft. that can be in a RV; that the maximum amount of footage for a RV is 400 sq. ft.; that in the exhibit there are pictures of a park model RV with the hitch for towing purposes; that the online packet includes an SFR report from DelDOT which states there would be a minor impact on traffic and an area-wide study fee could be paid and this must be incorrect as this request would not generate any new traffic; that in fact, if this amendment is approved there would be 126 less trips per year on Long Neck Road as the RV's would remain on the site year round; that they will not be occupied year round as the Park will be closed from November through the end of March.

There were no public comments.

The Public Hearing and public record were closed.

**M 459 22  
Adopt  
Ordinance  
No. 2886/  
CU2356**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Ordinance No. 2886 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVs SHALL BE STORED ON THE CAMPGROUND DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS” for the reasons and findings of Planning and Zoning as follows:**

- 1. Condition # 9 of Ordinance # 1963 currently prohibits campers and RVs from being stored within the campground when it is closed for the season. This includes “Park Model” RVs specifically built for use in this campground.**
- 2. As a result of Condition #9, all “Park Model” RVs must be disconnected from all utilities and transported along the area roadways to an offsite location. This creates additional and unnecessary traffic on those area roadways.**
- 3. This revision will not adversely affect neighboring properties or roadways.**
- 4. No parties appeared in opposition to this request.**
- 5. For these reasons, it is appropriate to amend Condition #9 of Ordinance # 2378 and Conditional Use #1963 so that it now states as follows:**

*“9. “The campground/RV park shall remain vacant during the period that the campground is closed. No campers or RVs shall be stored on the campground while it is closed, with the exception of “Park Model” RVs located on approved “Park Model” campsites within the site. “Park Model” RVs located within the Special Flood Hazard Areas shall meet the requirements of Section 115-141B (3) of the Sussex County Zoning Code for manufactured homes.”*

**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/  
CZ1963**

**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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS” filed on behalf of ES Motors (property lying on the south side of Vines Creek Road [Rt. 26], approximately 0.5 mile east of Armory Road [Rt. 382])**

**Public  
Hearing/  
CZ1963  
(continued)**

**(911 Addresses: 30028 and 30032 Vines Creek Road) (Tax Parcel: 233-11.00-172.00)**

**The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2022, and on September 8, 2022, the Planning & Zoning Commission recommended approval of the application for the seven reasons stated.**

**(See the minutes of the Planning and Zoning Commission dated August 25 and September 8, 2022.)**

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

**The Council found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, ES Motors, Inc.; that also present on behalf of their application was Mr. Max Nichai; that this property is located just east of Dagsboro and is comprised of 9.5 acres; that the parcel is zoned AR-1 but has a non-conforming auto repair and sales business located on the property; that a Conditional Use was granted to operate commercial vehicle storage and car sales; that there are other commercial uses in the area including an RV storage property, a plumbing business, a seafood shop, and a trailer retail business; that the property is designated as Coastal Area on the Future Land Use Map which recognizes that office uses and light commercial uses are appropriate, therefore the designation of C-2 Medium Commercial would be appropriate; that a TIS report was not recommended; that the property will be serviced by individual wells and DNREC sewer; that the current use would continue but the proposal is to add some storage units on the rear of the property to provide commercial storage for small construction firms and some office buildings; that the subject property is on a minor arterial road which would support such development; that there would only be storage in the back of the property; that there would be no manufacturing or grading done on the property.**

**There were no public comments.**

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

**M 460 22  
Adopt  
Ordinance  
No. 2887/  
CZ1963**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 2887 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.54 ACRES, MORE OR LESS" for the reasons and conditions given by Planning and Zoning as follows:**

- 1. C-2 (Medium Commercial) Zoning is designed to support retail sales and the performance of consumer services. It is intended to be**

**M 460 22  
Adopt  
Ordinance  
No. 2887/  
CZ1963  
(continued)**

- located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1 along Vines Creek Road, a minor arterial road. It is close to land zoned CR-1 General Commercial and next to a non-conforming junkyard. This is an appropriate location for C-2 zoning.
  3. The property was previously approved for the sale of used vehicles and related activities as C/U619. This rezoning is a reasonable expansion of the existing conditional use.
  4. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for permitted uses.
  5. While there were concerns expressed by one neighbor, those can be addressed as part of the County's site plan review. Such a site plan review must occur for any expansion beyond what currently occurs on the site.
  6. The site is in the "Coastal Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
  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.

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

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

**Public  
Hearing/  
CU2316**

**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 MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS" filed on behalf of Southern Delaware Medical Center, LLC (property lying on the southeast side of Shady Road [S.C.R. 276], approximately 0.14-mile northeast of the intersection of Shady Road and Plantations Road [Rt. 1D]) (911 Addresses: 17611, 17623 & 17637 Shady Road, Lewes) (Tax Parcels: 334-6.00-511.02, 511.06 & 513.00)**

**The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2022, and on September 8, 2022, the Planning & Zoning Commission recommended approval of the application for the six reasons stated and subject to the eleven recommended conditions as outlined.**

**(See the minutes of the Planning and Zoning Commission dated August 25 and September 8, 2022.)**

**Jamie Whitehouse, Planning and Zoning Director presented the**

Public  
Hearing/  
CU2316  
(continued)

application.

The Council found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Lighthouse Construction, Inc. and the Owner, Southern Delaware Medical Center, LLC.; that also present are Mike Glick from Lighthouse Construction, Jamie Sechler, P.E. from Davis, Bowen, and Friedel and Lauren Townsend, Architectural Designer with Lighthouse Construction; that the Conditional Use application is for Medical Offices on three AR-1 zoned parcels on the southeast side of Shady Road, Lewes totaling 2.297 acres; that the proposed building will be 32,960 sf. with 127 parking spaces to include 4 handicapped parking spaces; that there is a demand for this type of use; that the adjacent properties are zoned AR-1 and MR and the property across the street is zoned C-1; that the property is surrounded by a mix of residential and commercial uses; that a buffer is proposed between the residential property at 17603 Shady Road, the Sunset Glen Community and the subject property; that there is a 6 ft. fence between the subject property and the Sunset Glen Community and some mature trees that separate the subject property from the properties to the rear; that the Applicant appeared before the Planning and Zoning Commission on August 25, 2022 and on September 8, 2022, the Commission recommended approval of the Conditional Use by a vote of 5-0; that the Applicant reviewed the Commission's recommended conditions; that the Applicant's engineer submitted a request to amend Condition D for the purpose of permitting parking in the front yard setback; that the Commission drafted Condition D to state "The use shall comply with the parking requirements set forth in the Zoning Code. There shall not be any parking within the front yard setback. In addition, the location shown for possible interconnection with the property to the east shall be included on the Final Site Plan"; that the Applicant requests removal of the language that prohibits parking in the front yard setback and proposes that Condition D be amended to state "The use shall comply with the parking requirements set forth in the Zoning Code. In addition, the location for possible interconnection with the property to the east shall be included on the Final Site Plan"; that the Applicant seeks amendment to this Condition because a medical facility requires a covered front entrance and drop off area for ambulatory and emergency vehicle access at the front of the building; that based on this need, parking that is typically placed in front of the building was relocated along Shady Road; that permitting parking in the front yard setback is consistent with neighboring properties and similarly developed sites along Route 1 where parking is located within that setback; that it is typical for medical facilities to locate parking in the front yard setback for the purpose of providing front door ambulatory and emergency access; that the Cape Henlopen Medical Facility located on Kings Highway is an example of having front yard setback parking; that the Zoning Code does not prohibit parking in the front yard setback and only discourages it; that in Condition C, there is a typographical error; that the second and third sentences are identical; that it is requested that one of those sentences be deleted.

**Public  
Hearing/  
CU2316  
(continued)**

**Public comments were heard.**

**Mr. Ray Hellman spoke in opposition of the Application. Mr. Hellman submitted a petition with 36 signatures for the record. Mr. Hellman stated that the neighbors are concerned about the impact that this project will have to their existing homes that are in direct line of sight. The residents are requesting that the developer install a buffer privacy screening opposite the vehicle entrance and exit point to shield the homes from the traffic congestion, vehicle noise and headlights in the form of a fence or trees along Shady Road. Mr. Hellman noted that the request for the screening is located on the opposite side of the road.**

**Mr. Moore pointed out that the location of where the buffer is requested to be placed is located on property that the applicant does not own. In order for that to happen, permission or an easement would need to be granted from the property owner.**

**Mr. Hellman stated that he has been in discussions with the HOA President and HOA body. Mr. Hellman showed a nearby development that is zoned commercial. Due to it being zoned commercial, no landscaping plan was required for the development to receive approval. Mr. Hellman pointed out that there is currently no buffer and discussed the increased traffic along Shady Road.**

**Mr. Hellman read a statement from two of his neighbors who could not attend today's meeting. The first statement was from Ms. Pamela Remines who explained that as a deaf person, she relies on lights for her safety. Currently, she has strobe lights and other lighting to accommodate her handicap in her home for awareness. The current traffic runs parallel to her home and is not a hinderance to her safety. However, the parking proposed as well as the in and out headlights when it is dark can seriously impact her ability to recognize the difference between the facility parking and her alarm mechanisms. She asked for consideration for a barrier for the new facility.**

**The next statement was from Mr. Marrow Cardilio who asked why the developer has not yet responded to DelDOT's letter of requirements and improvements needed based on the TIS study. In addition, he asked what progress has been made between the developer and DelDOT regarding the TIS study.**

**Ms. Johnson-Turner spoke in opposition of the application. She requested that a buffer be placed and questioned where the trash placement would be located.**

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

**M 461 22  
Amend**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to remove the second sentence in Condition 7C so that "In addition, the applicant may**

**Conditions/  
CU2316**

**install one additional lighted ground sign that does not exceed 32 square feet in size per side” would be the last sentence and in Condition 7D to remove the second sentence that reads “There shall not be any parking within the front yard setback”.**

**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 22  
Adopt  
Ordinance  
No. 2888/  
CU2316**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to Adopt Ordinance No. 2888 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS” for the reasons given and conditions given by Planning and Zoning and as amended by this Council as follows:**

- 1. The proposed Conditional Use is located along Shady Road. There are other commercial zonings and uses in this area, including the DART hub across the street. Shady Road is evolving with a mixture of high-intensity commercial uses at the Rt. 1end, a medical center at the Plantations Road end, and multi-family developments, a mixture of zonings, small businesses, and homes in between. This location with such a mixture of uses an appropriate location for medical offices.**
- 2. The use serves a community need by creating medical offices at a convenient location for Sussex County residents near Beebe Hospital and other medical offices on Savannah Road and Plantations Road.**
- 3. The use of a medical office will benefit the health, safety, and welfare of Sussex County residents.**
- 4. The site is within the Coastal Area according to the Sussex County Comprehensive Plan. Medical offices such as this are appropriate within this Area according to the Plan.**
- 5. The use will be served by central water and sewer.**
- 6. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
- 7. This recommendation is subject to the following conditions:**
  - a. As stated by the Applicant, there shall be no more than 32,960 square feet of medical and professional office space.**
  - b. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 4:00 p.m. on Saturdays. Additional hours for emergency purposes are permitted.**
  - c. One lighted sign, not to exceed 50 square feet, shall be permitted on the building. In addition, the applicant may install one additional**



**M 462 22  
Adopt  
Ordinance  
No. 2888/  
CU2316  
(continued)**

- lighted ground sign that does not exceed 32 square feet in size per side.**
- d. The use shall comply with the parking requirements set forth in the Zoning Code. In addition, the location shown for possible interconnection with the property to the east shall be included on the Final Site Plan.**
- e. There shall be a 20-foot landscape buffer installed along the site’s rear property line and along the common property line with Tax Parcel # 334-6.00-511.03.**
- f. All entrance, intersection, and roadway improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- g. All exterior lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
- h. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- i. The site shall be served by central water and central sewer.**
- j. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using best management practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

**Motion Adopted: 5 Yeas**

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

**Public  
Hearing/  
FLUM  
Ordinance**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00”. (property lying on the west side of Coastal Highway [Route 1], west of the intersection of Coastal Highway and Eagles Crest Road [S.C.R. 264]) (911 Address: 29763 Eagles Crest Road, Milton)**

**The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2022. Staff has not received recommendation from the Planning and Zoning Commission, and the Proposed Ordinance is scheduled to go before them at their next scheduled meeting.**

**(See the minutes of the Planning and Zoning Commission dated August 25, 2022.)**

**Public  
Hearing/  
FLUM  
Ordinance  
(continued)**

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

**Mr. Whitehouse explained that the request is to change the designation from Low-density to Industrial and to amend the existing land use map to change the designation from the Utilities and Recreation designation to Industrial. Additionally, it is being requested to amend the text and maps of Chapter 13 to add airport icons as shown in Exhibits B & C.**

**The Council found that Mr. John Paradee, Esq. was present on behalf of the property owners; that Christian Hudson, property owner was present; that the first two map amendments are simply corrections to errors that were made in the 2018 Comprehensive Plan that eliminated designations that had been set forth in the 2008 Comprehensive Plan; that the 2018 Plan had identified the air strip and the hangers as industrial designation; that the other request is to add two icons to the maps in Chapter 13 of the Comprehensive Plan; that currently, the maps only show the Georgetown and Laurel airports; that the Eagle Crest airport is the 5<sup>th</sup> largest airport in Delaware and the 2<sup>nd</sup> largest in Sussex County; that the power point presentation shows the history of the property, the designation in 2008, the error in the 2018 plan, the draft amendment to Chapter 13 to show the airplane icon, and there is a timeline included; that if the correction is not made it would essentially show that the industrial use was taken away from the property owners; that the icons on the map show the impact of the airport from a land use planning perspective; that the Planning and Zoning Commission made a suggestion to show the location of all of the airports in Sussex County whether they are public or private and that he has been working with Vince Robertson on some language so that all of the airports can be recognized in Sussex County.**

**Mr. Jon Chirtea spoke in favor of the application. Mr. Chirtea stated that he lives at Eagle Crest Aerodrome and is the President of the Homeowners Association. Mr. Chirtea stated that Eagle Crest Aerodrome is a great little airport and urged the support of the Council.**

**Mr. Jeff King spoke in favor of the application. Mr. King shared that the airport was started in the late 1980s as an air park. He added that there are about 25 to 26 homes that all have access to a hangar which is unique. Mr. King stated that these changes are good for future planning and for people moving to the area to know there is an airport. Mr. King stated that he disagrees with the Planning and Zoning Commission's decision to put all airports on the map because it clutters the map up and it is not necessary. He believes that any airport that is larger than the Laurel airport could be included and anything smaller could be included by request.**

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

**M 463 22  
Defer**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND**

**Action/  
FLUM  
Ordinance**

**THE TEXT AND MAPS OF CHAPTER 13 (MOBILITY ELEMENT) OF THE COMPREHENSIVE PLAN IN ADDITION TO AMENDMENTS TO THE EXISTING AND FUTURE LAND USE MAPS OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-16.00-50.02, 235-22.00-441.00, AND 235-22.00-442.00”.**

**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 22  
Adjourn**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to adjourn at 3:02 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.}*