

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 14, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 14, 2021, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 404 21
Approve
Agenda**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to approve the Agenda, as posted.

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 31, 2021 were approved by consent.

**Corre-
spondence**

Mr. Moore reported that correspondence was received from the Community Food Pantry and from Make-A-Wish in appreciation of grants.

**Public
Comments**

Public comments were heard and the following spoke:

Steve Dulin spoke regarding the past history of The Peninsula and his previous opposition to amending the build-out of the project.

Jim Heston and Ray Naughton spoke in regards to the promised amenities in The Vines of Sandhill project.

**Recognition
of Former
Board of
Adjustment
Members**

The Sussex County Council recognized two former Board of Adjustment members, Jeffrey Hudson and Brent Workman, for their service to Sussex County. Jeffrey Hudson served on the Board of Adjustment from 1998 to 2017. Brent Workman served on the Board of Adjustment from 2002 – 2021.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Linkside Village, Phase 2 (formerly known as Nutter's Grant & Bridgeville Park Center) received Substantial Completion on August 30, 2021.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet September 20th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown.

3. Reassessment Town Hall Meetings

Sussex County, in conjunction with Tyler Technologies, will host 5 town hall meetings to provide an overview of the upcoming reassessment process. The public meetings are scheduled for:

- Thursday, September 23rd from 2 to 4 p.m. at the Milton Fire Department;**
- Thursday, September 23rd from 6 to 8 p.m. at the Delaware Technical Community College – Owens Campus – Carter Partnership Center;**
- Monday, September 27th from 6 to 8 p.m. at the Delaware National Guard-Bethany Beach Training Site;**
- Wednesday, September 29th from 6 to 8 p.m. at the Millsboro Town Center; and**
- Thursday, September 30th from 6 to 8 p.m. at the Seaford Fire Department.**

In addition, one virtual session featuring the same presentation will be conducted. That meeting will be held Monday, September 27th from 2 to 4 p.m. Anyone interested in viewing the virtual session please visit the County website at www.sussexcountype.gov for more information and the meeting link.

(Attachments to the Administrator's Report are not attachments to the minutes.)

**Public
Safety
Building
Project**

Hans Medlarz, County Engineer, reported on the need for a revised Change Order No. 1 for EMS Public Safety Building, Project C19-04. On August 30th, Council awarded Change Orders for structural and light weight steel materials. On August 10, 2021, Council awarded the project to Bancroft

Public Safety Building Project C19-04/ Revised Change Order No. 1 (continued)

Construction Company in the amount of \$8,282,169.00. On August 31, 2021, the Council approved Change Order No. 1 in the not-to-exceed amount of \$40,000 and Change Order No. 2 in the amount of \$8,800 for steel material price increases. The structural steel material change order No. 1 was based on August 12, 2021 pricing. When Bancroft transmitted the “letter of intent to award” to their subcontractor from Iron Works, Inc. on August 30th, they in turn issued material purchase orders. However, the material suppliers responded that material quotations are only binding for one week. Mr. Medlarz reported that the Engineering Department, in consultation with the Finance Director, authorized Bancroft to lock in at the August 30th material costs triggering a revision to Change Order No. 1. The Engineering Department now requests Council’s approval of a Change Order No. 1 revision to a fixed amount of \$62,829.00.

M 405 21 Approve Revised Change Order No. 1/ Public Safety Building

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the previously issued Change Order No. 1 for Contract C19-04, Sussex County Public Safety Building, be rescinded and replaced with the revised Change Order No. 1, increasing the Contract in the now fixed amount of \$62,829.00.

Motion Adopted: 5 Yeas.

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

Town of Georgetown and Coastal Business Park and Airport/ Sewer and Water Inter-connection/ Amendment No. 5 to the 2019 Misc. Eng. Base Agreement

Hans Medlarz, County Engineer, presented Amendment No. 5 to the Miscellaneous Engineering Contract with Davis Bowen & Friedel. He noted that amendments are only amendments to the Base Contract where a new task order is issued. Amendment No. 3 was the sewer and water interconnection between the Town of Georgetown and the Coastal Business Park and Airport; the sewer piece was to go along the railroad track and tie into Artesian at the “handshake point” on Park Avenue. Mr. Medlarz stated that this was anticipated to be relatively easy and two things convoluted the process: when it was submitted initially to DelDOT, a lengthy list came back of requirements to install this, i.e. railroad safety. The most opportune response was that the County will drill the pipe in and get out of six or seven requirements. After this, the Engineering Department had to deal with the force main, i.e. Eastern Shore Natural Gas installed on Park Avenue; this requires a change in alignment which requires an easement from the Bakers. In conclusion, Mr. Medlarz stated that more funding is needed to complete the connection.

M 406 21 Approve Amendment No. 5

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 5 to the 2019 Miscellaneous Engineering Base Agreement with Davis Bowen & Friedel, Inc. be approved in the amount not to exceed

M 406 21 **\$25,000.00 for additional engineering services associated with the Town of**
Approve **Georgetown wastewater interconnection scope modification.**
Amendment

No. 5 **Motion Adopted: 5 Yeas.**
(continued)

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

North **John Ashman, Director of Utility Planning & Design, presented an update on**
Georgetown **the North Georgetown Area of the Sussex County Unified Sanitary Sewer**
Area **District. The Engineering Department appeared before Council on April 27,**
of the **2021 to request permission for this expansion and notices were prepared and**
SCUSSD **posted for the public hearing. The Public Hearing was held on June 15, 2021**
 at which time a revision to the boundary was required and Council voted on
 July 15, 2021 to establish the boundary. The Engineering Department held
 a strictly mail-in referendum based on there being only three parcel owners;
 thereafter, all property owners returned their ballots and the results of the
 referendum were 3 in favor and 0 in opposition.

M 407 21 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt**
Adopt **Resolution No. R 020 21 entitled “NORTH GEORGETOWN AREA OF THE**
R 020 21 **SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT**
 DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF
 THE DELAWARE CODE”.

Motion Adopted: 5 Yeas.

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

Grant **Peggy Geisler, Executive Director of the Sussex County Health Coalition,**
Request/ **presented the grant request from the United Way of Delaware, Inc. for Sussex**
Delaware **County Health Coalition, Inc. for the Delaware Goes Purple Substance Abuse**
Goes **Awareness Program. Ms. Geisler presented information on the Awareness**
Purple **and Prevention Campaign. Ms. Geisler noted that all of the money granted**
 by Sussex County Council goes to youth awareness programs.

M 408 21 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to give**
County- **\$5,000.00 from Countywide Youth Grants to United Way of Delaware, Inc.**
wide **for Sussex County Health Coalition, Inc. for the Delaware Goes Purple**
Youth **Substance Abuse Awareness Program.**
Grant

Motion Adopted: 5 Yeas.

**M 408 21
(continued)**

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

**Grant
Request**

The Council considered a grant request from the Laurel Women’s Civic Club.

**M 409 21
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$250.00 from Mr. Vincent’s Councilmanic Grant Account to the Laurel Women’s Civic Club for the Wreaths Across America Project.

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/
Marlin
Cove
Expansion**

A Public Hearing was held to consider the Marlin Cove Expansion of the Sussex County Unified Sanitary Sewer District (Fenwick Island Area). John Ashman, Director of Utility Planning & Design, reported that the Engineering Department received a request from Vista Design, Inc. on behalf of their client, Atlantic Building Associates, Inc., the owners/developers of a project to be known as Marlin Cove. The project is proposing 49 units. Two of the three parcels are already in the sewer district; this request is to include Parcel No. 533-19.00-8.01. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates and an Infrastructure Use Agreement will be required.

There were no public comments.

The Public Hearing and public record were closed.

**M 410 21
Adopt
R 021 21**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 021 21 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), FENWICK ISLAND AREA, TO INCLUDE THE PROPOSED MARLIN COVE SUBDIVISION PROJECT LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Scenic
Manor
Expansion**

A Public Hearing was held to consider the Scenic Manor Expansion of the Sussex County Unified Sanitary Sewer District.

Hans Medlarz, County Engineer, reported that the Engineering Department received a request from Morris & Ritchie Associates, Inc. on behalf of their client, MKR Land Investment, LLC, the owners/developers of a project known known as Scenic Manor. The project is proposing 319 units. This request is to include Parcel No. 334-18.00-43.00. Mr. Medlarz noted that the request was received in December 2019; however, the Engineering Department has not acted on the request because the land use process had not fully moved through the process. Additionally, this parcel is within the Tier II sewer district area, which means sewer service can only be provided by Sussex County, so there is no other option for the owners/developers. Mr. Medlarz noted that the Council granted approval to the Engineering Department to post the property for the annexation in the Mulberry Knoll Area of the Unified District, because it would allow the County to spread the user assessment of the Mulberry Knoll Area over a larger user base. Mr. Medlarz also noted that this project is not only subject to the sewer connection charges and the infrastructure use agreement based on contribution. The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates, an Infrastructure Use Agreement based contribution and yet to be determined infrastructure upgrades commensurate with the units required. Lastly, Mr. Medlarz noted that any downstream associated system improvements are also tacked on; this flow will go through the Beacon Middle School Pump Station, which will need to be improved by Scenic Manor. Mr. Medlarz advised that Scenic Manor has been made aware of all of this. He also advised that there are a number of requirements attached to this expansion which are all Code-based.

Mr. Medlarz advised that one comment has been received in strong opposition.

There were no public comments during the public hearing.

The Public Hearing and public record were closed.

**M 411 21
Adopt
R 022 21**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Resolution No. R 022 21 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MULBERRY KNOLL AREA, TO INCLUDE THE PROPOSED SCENIC MANOR SUBDIVISION PROJECT LOCATED IN THE LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

**M 411 21
(continued)**

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

**Old
Business/
CZ 1942**

Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC, Twin Cedars, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On June 10, 2021 the Commission recommended approval with the following conditions:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the**

**Old
Business/
CZ 1942
(continued)**

- existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**
 - k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - l. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the front entrance as well as the sides of the property (excluding the rear open space), as presented during the Public Hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
 - n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
 - o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
 - p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
 - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 412 21
Amend
Condition/
CZ 1942**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend Condition m to read as follows: “The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the public hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.”

**M 412 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 413 21
Adopt
Ordinance
No. 2797/
CZ 1942**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2797 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC, Twin Cedars, LLC, with the following conditions, as amended:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and fire protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. 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. All silt**

**M 413 21
Adopt
Ordinance
No. 2797/
CZ 1942
(continued)**

- fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**
 - k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
 - l. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the public hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
 - n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
 - o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
 - p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
 - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF

**Introduction
of Proposed
Ordinances
(continued)**

CHANGE OF ZONE NO. 1883 (ORDINANCE NO. 2690) AND CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) RELATING TO THE MAXIMUM NUMBER AND TYPES OF HOUSING PERMITTED FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 778.39 ACRES, MORE OR LESS” (Change of Zone No. 1936) filed on behalf of OA-BP Marina Bay-Lakeside, LLC (Tax I.D. Nos. 234-30.00-1.00 through 430.00) (911 Address: None Available).

Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.33 ACRES AND 0.08 ACRE, MORE OR LESS” (Change of Zone No. 1947) filed on behalf of Kenneth P. Adams (Tax I.D. Nos. 133-6.00-50.00 & p/o 50.02) (911 Addresses: 25116, 25076 & 25136 DuPont Boulevard, Georgetown).

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL NUMBER 15 OF C/Z 1538 (ORDINANCE NO. 1700) AND C/Z 1926 (ORDINANCE NO. 2786) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1948) filed on behalf of The Grande at Canal Point Maintenance Corporation (Tax I.D. No. 334-13.00-334.00, 1448.00 through 1750.00) (911 Address: None Available).

Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.60 ACRES, MORE OR LESS” (Change of Zone No. 1952) filed on behalf of Samantha Broadhurst (Tax I.D. No.: 135-9.00-26.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

M 414 21 **At 10:52 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to**
Go Into **recess the Regular Session and go into Executive Session for the purpose of**
Executive **discussing matters relating to pending/potential litigation and land acquisition.**
Session

Motion Adopted: 5 Yeas.

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

Executive **At 11:00 a.m., an Executive Session of the Sussex County Council was held in**
Session **the Basement Caucus Room to discuss matters relating to pending/potential**
litigation and land acquisition. The Executive Session concluded at 11:18 a.m.

M 415 21 **At 11:23 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to**
Reconvene **come out of Executive Session and reconvene the Regular Session.**
Regular

Session **Motion Adopted: 5 Yeas.**

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

M 416 21 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that Sussex**
Approve **County is an Eligible Subdivision within the pending settlement agreements**
Agreement **related to the opioid crisis in Delaware; and Be It Further Moved, that the**
Regarding **Sussex County Council agrees to enter a certain settlement agreement known**
Prescription **as the ‘Remediating Opioids Across Delaware through State-Municipal**
Opioid **Abatement Partnership Agreement’ and to join the State of Delaware by**
Settlement **participating in the distribution of the Prescription Opioid Settlement Fund.**

Motion Adopted: 5 Yeas.

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

M 417 21 **At 11:25 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson,**
Recess **to recess until 1:30 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

M 418 21 Reconvene At 1:30 p.m., a Motion was made by Mr. Hudson, 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 rules of procedure for zoning hearings.

**Public Hearing/
CU 2255** A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE O GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS” (Conditional Use No. 2255) filed on behalf of John Sommers (Tax I.D. No. 134-15.00-95.03) (911 Address: 32650 Roxana Road, Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended approval with the following conditions:

- a. This use shall be limited to the business of selling, renting, and repairing bicycles and related accessories. No other business shall be conducted from the site.
- b. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.
- c. The hours of operation for the business shall be from 8:00 a.m. until 8:00 p.m.
- d. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and roadways.
- e. There was testimony during the hearing about a water valve on the neighbor’s property that is served and controlled from this property. The Applicant shall disconnect any plumbing or water service that crosses from his property onto the neighboring property.
- f. There shall be a row of tree planting along the northern boundary of this site to sufficiently screen it from the view of the adjacent property. The nature, type, and location of the plantings shall be shown on the Final Site Plan.
- g. The Final Site Plan shall depict the area of the Conditional Use as being between the frontage along Roxanna Road and the ditch that bisects the property. There shall also be “No Trespassing” signs placed along the northern boundary to deter anyone from disturbing the farm animals next door.

**Public
Hearing/
CU 2255
(continued)**

- h. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property's setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

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

One (1) letter of opposition has been received.

The Council found that Jay Sommers was present on behalf of his application. He stated that he is the owner of Fenwick Island Bicycle Shop and Ocean Cycles of Bethany Beach; that he wants to open another bicycle shop on his property; that he lives in a subdivision; that as the market for beach homes has expanded outward from the beach area, he has noticed that the demand for rental bikes has increase and the need often comes from other subdivisions; that he has noticed an increase in bicycling on nearly every road in the area; that this, along with many homes being built directly in the area around his property, has led him to believe that this area is a good spot for the opening of another bicycle shop to expand his business and to service the needs of an expanding area and population; that a lot of the area subdivisions are connected or will be connected by multi-use paths; that his parcel is located in the Coastal Area according to the Comprehensive Plan and small scale business growth is acceptable and promoted in the Coastal Area; that the property is screened from surrounding properties by trees and will have additional trees planted or a fence constructed as per a request from his neighbor; that the adjacent property has a Conditional Use for an office and warehousing; and that commercial uses and zonings continue to creep south along Route 17 and away from Route 26 as residential development continues to expand.

There were no public comments.

The Public Hearing and public record were closed.

**M 419 21
Adopt
Ordinance
No. 2797/
CU 2255**

A Motion was made by Mr. Rieley, seconded from Mr. Schaeffer, to Adopt Ordinance No. 2797 entitled "AN ORDINANCE O GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE, RENTING, STORAGE, AND REPAIR OF BICYCLES AND RELATED ACCESSORIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN

**M 419 21
Adopt
Ordinance
No. 2797/
CU 2255
(continued)**

BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS” (Conditional Use No. 2255) filed on behalf of John Sommers, with the following conditions:

- a. This use shall be limited to the business of selling, renting, and repairing bicycles and related accessories. No other business shall be conducted from the site.**
- b. One lighted sign shall be permitted. It shall be no larger than 32 square feet per side.**
- c. The hours of operation for the business shall be from 8:00 a.m. until 8:00 p.m.**
- d. Any security lighting shall be shielded and downward screened so that it does not shine on neighboring properties and roadways.**
- e. There was testimony during the hearing about a water valve on the neighbor’s property that is served and controlled from this property. The Applicant shall disconnect any plumbing or water service that crosses from his property onto the neighboring property.**
- f. There shall be a row of tree planting along the northern boundary of this site to sufficiently screen it from the view of the adjacent property. The nature, type, and location of the plantings shall be shown on the Final Site Plan.**
- g. The Final Site Plan shall depict the area of the Conditional Use as being between the frontage along Roxanna Road and the ditch that bisects the property. There shall also be “No Trespassing” signs placed along the northern boundary to deter anyone from disturbing the farm animals next door.**
- h. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- i. The Final Site Plan shall clearly show all areas for parking, and these areas shall be clearly marked on the site itself. There shall not be any parking within the property’s setbacks.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to review and approval of 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**

**Public
Hearing/
CU 2257**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR OUTDOOR BOAT STORAGE AND OVERFLOW PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.006 ACRES, MORE OR

**Public
Hearing/
CU 2257
(continued)**

LESS” (Conditional Use No. 2257) filed on behalf of Indian River Volunteer Fire Co. Inc. (Tax I.D. No. 234-34.08-53.00 [part of]) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Planning and Zoning Commission recommended approval with the following conditions:

- a. The use shall be limited to the storage of boats and overflow parking. No other storage of vehicles or equipment shall occur on the site.**
- b. The facility shall only be accessible from 8:00 a.m. until dusk.**
- c. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.**
- d. No sales or maintenance of boats shall occur on the site.**
- e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- f. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.**
- g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.**
- h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats located on the site.**
- i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.**
- j. No junked or unregistered boats or boat trailers shall be stored on the site.**
- k. The failure to abide to these conditions of approval may result in the revocation of this Conditional Use.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

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

Two (2) letters of support have been received.

The Council found that Patrick Miller, President of the Indian River Volunteer Fire Company (IRVFC) was present on behalf of the application. He stated that the IRVFC has partnered with its neighbors, the Community Church of Oak Orchard and the WMF Watercraft Company, which currently leases parcels between the fire company and the watercraft business but they have expanded across the street and have built additional

**Public
Hearing/
CU 2257
(continued)**

boat service facilities there; that between their facility and the church, the large parcel is owned by the IRVFC; that the IRVFC has been approached to see if they would be conducive to leasing the property for them to utilize it for additional boat storage (from being brought in for service to finalize for winter storage and moved to their other facilities; the firehouse has utilized that parcel of land since the early 1970's and has always allowed the church to utilize it for overflow parking and they still anticipate doing that; that they have earmarked a segment of land for the church to utilize, for the fire company for overflow parking and for the boat storage; and that they have no objections to the conditions recommended by the Planning and Zoning Commission.

There were no public comments.

The Public Hearing and public record were closed.

**M 420 21
Adopt
Ordinance
No. 2799/
CU 2257**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2799 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR OUTDOOR BOAT STORAGE AND OVERFLOW PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.006 ACRES, MORE OR LESS" (Conditional Use No. 2257) filed on behalf of Indian River Volunteer Fire Co., Inc., with the following conditions:

- a. The use shall be limited to the storage of boats and overflow parking. No other storage of vehicles or equipment shall occur on the site.
- b. The facility shall only be accessible from 8:00 a.m. until dusk.
- c. The perimeter of the site shall be fenced with a 6-foot high fence that screens the property from neighboring and adjacent properties and roadways.
- d. No sales or maintenance of boats shall occur on the site.
- e. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- f. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the Final Site Plan.
- g. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
- h. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats located on the site.
- i. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
- j. No junked or unregistered boats or boat trailers shall be stored on the site.

**M 420 21
Adopt
Ordinance
No. 2799/
CU 2257
(continued)**

- k. The failure to abide to these conditions of approval may result in the revocation of this Conditional Use.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2261**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE UNITS AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.63 ACRES, MORE OR LESS” (Conditional Use No. 2261) filed on behalf of What Is Your Voice, Inc. (Tax I.D. No. 334-6.00-515.00) (911 Addresses: 17583 Shady Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended approval, with the following conditions:

- a. The use shall be limited to an office and four storage units within the existing structures on the site.**
- b. There shall not be any outside storage of any materials or equipment.**
- c. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- e. The Applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.**
- f. As stated by the Applicant, no signs shall be located on the site.**
- g. The parking shall comply with the County parking requirements. All vehicle parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- h. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
- i. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
- j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Public
Hearing/
CU 2261
(continued)**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

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

The Council found that Rachel Bleshman, Esq. was present on behalf of the Applicant. She stated that the Applicant wishes to maintain an office in the existing garage on the parcel and the four rental storage units in the existing one-story pole building; that the request is in connection with the Applicant’s non-profit organization; that the non-profit organization was established in 2013 to combat domestic violence, family violence and teen violence; that in addition to the proposed uses, the Applicant intends to use the existing dwelling on the property for residential purposes; that one employee will be on-site and will monitor the site; that the purpose of this application is to efficiently provide critically needed services to the vulnerable and expanding population of Sussex County; that this is not a new use for the property; that the Applicant did receive a Notice of Violation from the Sussex County Constable; that the Applicant was unaware that the use was not permitted without a Conditional Use; that the general area is a mixed-use area, which includes residential and commercial uses; that DeIDOT did not require a Traffic Impact Study; and that the application is in compliance with the Sussex County Zoning Code and Comprehensive Plan.

There were no public comments.

The Public Hearing and public record were closed.

**M 421 21
Adopt
Ordinance
No. 2800/
CU 2261**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to Adopt Ordinance No. 2800 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE UNITS AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.63 ACRES, MORE OR LESS” (Conditional Use No. 2261) filed on behalf of What Is Your Voice, Inc., with the following conditions:

- a. The use shall be limited to an office and four storage units within the existing structures on the site.**
- b. There shall not be any outside storage of any materials or equipment.**
- c. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- d. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- e. The Applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.**
- f. As stated by the Applicant, no signs shall be located on the site.**
- g. The parking shall comply with the County parking requirements. All vehicle parking areas shall be shown on the Final Site Plan and clearly**

**M 421 21
Adopt
Ordinance
No. 2800/
CU 2261
(continued)**

- marked on the site itself. All vehicles must only be parked within the designated areas.
- h. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
 - i. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
 - j. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2289**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MARKETPLACE WITH SIMILAR ACTIVITIES AND OFF-SITE PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.247 ACRES AND 0.327 ACRES, MORE OR LESS” (Conditional Use No. 2289) filed on behalf of Leah Beach (Tax I.D. Nos. 334-13.20-21.00 & 334-13.19-79.00 [p/o]) (911 Addresses: 19897 Hebron Road & 19826 Central Avenue, Rehoboth Beach).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommend approval with the following conditions:

- a. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The hours of operation shall be limited to 11:00 a.m. through 9:00 p.m., Thursday through Monday of each week.**
- d. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.**
- g. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.**

**Public
Hearing/
CU 2289
(continued)**

- h. The Final Site Plan shall clearly show all parking areas, stage locations and other structures associated with the use as well as the areas set aside for the outdoor sales. It shall also clearly show the location for the sale of alcoholic beverages, and the fencing or similar enclosures required by the Delaware Alcoholic Beverage Control Commission for such sales.**
- i. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

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

The Council found that Leah Beach was present on behalf of her application. She stated that she is the Executive Director and Founder of The Developing Artist Collaboration; that the mission of the organization is to support the careers of artists; that Creative Market began in 2020; that this event was held in downtown Rehoboth; that the organization’s headquarters is located in West Rehoboth; that the organization has committed itself to dedicate as much programming as possible to take place in West Rehoboth; that this is due to the location of the organization’s facilities and the priority to honor the culture and rich history of the historic community of color; that Creative Market is located on a lot that is owned by the landlord of another one of the organization’s other buildings that they rent in the neighborhood; that they have created a weekly marketplace that features local and regional artists; that the Creative Market also includes live music, food trucks and responsible alcohol service to create a cultural experience for the community; that public safety and crowd management are a priority; that live music is cut off at 9:00 p.m.; that they would like the option to hold events 7 days per week; and that they are very respectful of the community.

Public comments were heard.

Brenda Milbourne, Executive Director of West Side New Beginnings’ Children and Youth Programs, Rick Poppleton, property owner in West Rehoboth, and Robert Paul spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 422 21
Amend
Condition/
CU 2289**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend Condition C recommended by the Planning and Zoning Commission to read as follows: “The hours of operation shall be limited to 9:00 a.m. through 9:00 p.m., seven (7) days per week.”

**M 422 21
(continued)**

Motion Adopted: 5 Yeas.

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

**M 423 21
Adopt
Ordinance
No. 2801/
CU 2289**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2801 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN OUTDOOR MARKETPLACE WITH SIMILAR ACTIVITIES AND OFF-SITE PARKING TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.247 ACRES AND 0.327 ACRES, MORE OR LESS” (Conditional Use No. 2289) filed on behalf of Leah Beach, with the following conditions, as amended:

- a. This use shall be limited to an outdoor marketplace, which may include food and beverage service and live music.**
- b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
- c. The hours of operation shall be limited to 9:00 a.m. through 9:00 p.m., seven (7) days per week.**
- d. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- e. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- f. There shall not be any dumping on the site. Also, no junk or unsold items shall accumulate outdoors on the site.**
- g. Any dumpsters associated with the use shall be screened from view from neighboring properties or roadways.**
- h. The Final Site Plan shall clearly show all parking areas, stage locations and other structures associated with the use as well as the areas set aside for the outdoor sales. It shall also clearly show the location for the sale of alcoholic beverages, and the fencing or similar enclosures required by the Delaware Alcoholic Beverage Control Commission for such sales.**
- i. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2278**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.902 ACRES, MORE OR LESS” (Conditional Use No. 2278) filed on behalf of Branson James (Tax I.D. No. 231-22.00-16.00) (911 Address: 17638 Dusty Road, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2021 at which time action was deferred. On August 26, 2021, the Commission recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2021.)

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

One (1) letter and one (1) petition containing twenty-one (21) signatures were received in opposition to the application. Six (6) letters of support were received in support of the application.

The Council found that Branson James was present on behalf of his application. He stated that this Conditional Use application is for an events venue that can be used for small concerts, community movie nights, craft shows, weddings, etc.; that they are looking to host events with up to approximately 200 people or less; that the events would not go longer than 11:00 p.m.; that they have porta-johns on site as well as running water for hand washing; that when they serve alcohol, they work with non-profits that obtain a gathering license; that currently, the non-profit they work with is Kristi’s Kats but they would like to work with others in the future if allowed to continue; that they are no longer requesting camping as part of the Conditional Use application; that they can safely fit 100 vehicles for parking on the property; that they would no longer allow any parking along the roadway; that DelDOT determined that the use would not have a major impact on the roadways; that they work with a security team to keep everyone safe, including a licensed EMT when they do host events; that they have a noise maintenance plan that has been submitted; that they have never received noise complaints or parking violations; that they did receive a violation from Sussex County; that they were granted a Special Event Permit (with conditions) for their most recent event; and that when they held that event under the Special Event Permit, they did not hear about any complaints.

Public comments were heard.

There were no public comments in support of the application.

**Public
Hearing/
CU 2278
(continued)**

Tom Moody, Kelley Short, Austin Short and Jerry Dukes spoke in opposition to the application. They expressed concern about the noise levels, especially at night; that sometimes the music is played past midnight, and one time until 5:00 a.m.; that police have been called on several occasions; that they can hear the music in their homes with doors and windows closed; that the proposed uses are not appropriate for the area; that the parcel is not large enough for this type of venue; and that surrounding properties would be devalued if the Conditional Use is approved.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 424 21
Adopt
Proposed
Ordinance
No. 2278**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.902 ACRES, MORE OR LESS” (Conditional Use No. 2278) filed on behalf of Branson James.

DENIED

Motion Denied: 4 Nays, 1 Yea.

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

**M 425 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to adjourn at 2:38 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,

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

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