

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 25, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 25, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 516 18
Amend
and
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to amend the agenda by deleting “Introduction of Proposed Zoning Ordinances” and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of September 18, 2018 were approved by consent.

**Public
Comments**

Public Comments

Dan Kramer commented on the 2018 Comprehensive Plan.

Chuck Davidson spoke in support of increased buffer zones.

**Sussex
Goes
Purple
Campaign**

Peggy Geisler, Sussex County Health Coalition, gave a presentation on the Sussex Goes Purple Campaign. Sussex Goes Purple is a substance abuse awareness and educational program that engages the community to stand up against substance abuse. Sussex Goes Purple is an initiative from the Sussex County Health Coalition with support from Highmark and DSAMH. The Initiative also includes implementing in-school Purple Clubs and prevention programs. Ms. Geisler asked that the Council formally adopt the Sussex Goes Purple Campaign and to consider grant funding for the program.

Wastewater Agreement Mr. Lawson presented a wastewater agreement for the Council's consideration.

M 517 18 Execute Wastewater Agreement/ Peninsula Lakes A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 558-15, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Peninsula Lakes, LLC for wastewater facilities to be constructed in Peninsula Lakes – Phase 17 (Construction Record), located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

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

1. Sussex County Property Taxes Due September 30th

A final reminder for property owners in Sussex County that September 30th 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 30th. Payments made October 1st or later will be subject to penalty.

This year's tax bills once again feature an easier-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 <http://www.sussexcountyde.gov/pay-your-bill>.

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

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: The Woodlands of Pepper's Creek - Phase 2 (Construction Record), effective September 18th; Showfield - Phase 2A (PS&FM), effective September 18th; and Fairway Village - Phase 6, effective September 19th.

3. John "Butch" Peters

**Administrator's
Report
(continued)**

It is with sadness that we note the passing of County pensioner John "Butch" Peters on Saturday, September 15th. Mr. Peters began his career with Sussex County in August 1988 and retired from the Emergency Operations Center as a Communication Support Tech I in January 2009 with over 20 years of service. We would like to extend our condolences to the Peters family.

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

**Report/
Receipt
of PLUS
Comments/
2018 Com-
prehensive
Plan**

Janelle Cornwell, Planning and Zoning Director, reported that as part of the Comprehensive Plan process, the Plan was submitted to the State to go through the PLUS Review. Comments have been received from the State; there were a few certification items and a few items to review and consider, one of which is the Future Land Use Map and Chapter. Ms. Cornwell noted that it was a lengthy report and the majority of the comments are recommendations from State agencies. Ms. Cornwell recommended that a workshop be held with the County's Consultant, McCormick Taylor, to review and consider the State's comments and how to address the recommendations and the certification items. Council agreed to hold a workshop during the week of October 15th.

**Old
Business/
CU 2127**

Under Old Business, the Council discussed Conditional Use No. 2127 filed on behalf of Wine Worx, LLC, a request for an event venue at a farm winery. The Planning and Zoning Commission held a Public Hearing on this application on May 10, 2018 at which time action was deferred. On May 24, 2018, the Commission recommended approval for the following reasons and with the following conditions:

- 1. The site is a 26 acre parcel of land owned by the Applicant. It has County approval for a winery, and this is an extension of that agricultural use.**
- 2. The Applicant intends to hold events that are connected with the primary use as a winery, such as live entertainment, craft nights, weddings, birthday parties, and similar events.**
- 3. The site will have 54 dedicated parking spaces, plus plenty of room for overflow parking.**
- 4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.**
- 5. The Applicant testified that the existing customers have been asking to use the winery for these activities. This use will serve that need in Sussex County.**
- 6. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.**
- 7. No parties appeared in opposition to this application.**
- 8. This recommendation is subject to the following conditions:**
 - A. All events shall end no later than 10:30 p.m. and clean up may occur after 10:30 p.m.**

**Old
Business/
CU 2127
(continued)**

- B. Food and beverage service and music or similar entertainment is permitted.**
- C. As stated by the Applicant, there shall be no more than 200 people at any event.**
- D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- E. All entrance locations shall be subject to the review and approval of DelDOT.**
- F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The Council held a Public Hearing on this application on June 5, 2018 at which time action was deferred. The Council deferred action again on September 18, 2018.

**M 518 18
Amend
Conditions**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to delete Conditions A through F (recommended by the Planning and Zoning Commission) in their entirety and the following instituted in their place:

- A. Events shall be strictly limited to the front portion of the parcel commencing at Blackwater Road (County Road 384) and running approximately 1228.94 feet. No events shall be permitted in the back portion of the parcel.**
- B. Concert type events for which there is charged admission shall be limited to Fridays, Saturdays and Sundays and shall end no later than 10:30 p.m. on Fridays and Saturdays and 6:00 p.m. on Sundays.**
- C. Food and beverage service and music or similar entertainment is permitted in conjunction with permissible agritourism activities and in compliance with the Sussex County Code.**
- D. Other events such as weddings, showers, parties, and benefits may be conducted on the premises and shall end no later than 9:00 p.m. except on Fridays and Saturdays when they must end by 10:30 p.m., and Sundays when they must end by 6:00 p.m.**
- D. Certain agritourism activities such as “barn parties and farm festivals” as set forth in 9 Del. C. §306(a) are permitted.**
- E. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
- F. Applicant shall be required to obtain a Fire Marshal rating for the building in which the events are held. Applicant shall comply with the Fire Marshal’s determination of the maximum number of persons allowed on the premises at any given time, but, in no event shall there be more than 200 people at any event.**
- G. Parking shall be in compliance with the Sussex County Code. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- H. All entrance locations shall be subject to the review and approval of DelDOT.**
- I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**M 518 18
(continued)**

Motion Adopted: 5 Yeas.

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

**M 519 18
Amend
Findings/
Conditions**

A Motion was made by Mr. Cole, seconded by Arlett, that No. 8 be removed to insert “and as amended by Council” after the words Planning and Zoning Commission and that the words “six (6) conditions (A-F)” be deleted and “eight (8) conditions (A-I)” be substituted in its place.

Motion Adopted: 5 Yeas.

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

**M 520 18
Adopt
Ordinance
No. 2600/
CU 2127**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2600 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.60 ACRES, MORE OR LESS” (Conditional Use No. 2127 filed on behalf of Wine Worx, LLC with the following conditions, as amended:

- A. Events shall be strictly limited to the front portion of the parcel commencing at Blackwater Road (County Road 384) and running approximately 1228.94 feet. No events shall be permitted in the back portion of the parcel.**
- B. Concert type events for which there is charged admission shall be limited to Fridays, Saturdays and Sundays and shall end no later than 10:30 p.m. on Fridays and Saturdays and 6:00 p.m. on Sundays.**
- C. Food and beverage service and music or similar entertainment is permitted in conjunction with permissible agritourism activities and in compliance with the Sussex County Code.**
- D. Other events such as weddings, showers, parties, and benefits may be conducted on the premises and shall end no later than 9:00 p.m. except on Fridays and Saturdays when they must end by 10:30 p.m., and Sundays when they must end by 6:00 p.m.**
- D. Certain agritourism activities such as “barn parties and farm festivals” as set forth in 9 Del. C. §306(a) are permitted.**
- E. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
- F. Applicant shall be required to obtain a Fire Marshal rating for the building in which the events are held. Applicant shall comply with the Fire Marshal’s determination of the maximum number of persons allowed on the premises at any given time, but, in no event**

**M 520 18
Adopt
Ordinance
No. 2600/
CU 2127
(continued)**

shall there be more than 200 people at any event.

- G. Parking shall be in compliance with the Sussex County Code. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- H. All entrance locations shall be subject to the review and approval of DelDOT.**
- I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 3 Yeas, 2 Nays.

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

**Milton
Public
Library
Bulkhead
Replace-
ment
Project**

Hans Medlarz, County Engineer, presented a Balancing Change Order and requested Substantial Completion be granted for the Milton Library Bulkhead Replacement Project (Project #18-09). The Balancing Change Order, in the credit amount of \$14,451.75, is a result of finalizing quantities (work was completed at a lesser amount than authorized). Mr. Medlarz reported that the project was declared substantially complete on September 24, 2018.

**M 521 18
Approve
C/O and
Grant
Substantial
Completion/
Milton
Public
Library
Bulkhead
Replace-
ment
Project**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Change Order No. 4 for Contract 18-09, Milton Public Library Bulkhead Replacement, be approved, decreasing the contract amount by \$14,451.75 for a new total of \$380,000.00 and that Substantial Completion be granted effective September 24, 2018 and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

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

**Route 54
Sewer
Expansion
Project**

Mr. Medlarz presented a Balancing Change Order and a request to grant Substantial Completion for the Route 54 Sewer Expansion of the Fenwick Island Sanitary Sewer District Area, Project No. 14-10. The Balancing Change Order reduces the Contract by \$45,288.56 and is a result of finalizing quantities as well as addressing several issues (grouting sections of the existing forcemain, milling expanded sections, adding two additional days to the contract, and replacement of sections of sidewalk). Mr. Medlarz reported that the project was declared Substantially Complete on June 29, 2018.

M 522 18

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Balancing

M 522 18
Approve
C/O and
Grant
Substantial
Completion/
Route 54
Expansion
Project
(continued)

Change Order No. 2 for Contract 14-10, Route 54 Sewer Expansion of the Fenwick Island Sanitary Sewer District Area, be approved, decreasing the Contract amount by \$45,288.56 for a new total of \$2,178,273.54 and that Substantial Completion be granted effective June 29, 2018 and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

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

Robinson-
ville Road
Infra-
structure
Use Agree-
ments and
Assumption
of Pro-
fessional
Engineering
Services

John Ashman, Director of Utility Planning, reported on the intent for a combined sewer infrastructure approach covering three projects proposed in the Robinsonville Road Expansion. The proposed expansion has been requested by Insight Homes for their project (Parcels 234-11.00-60.00, 64.00 & 62.03) and Solutions IPEM on behalf of their client (Bryton Simpler for Parcels 234-11.00-66.00 & 66.01). Mr. Ashman reported that several other parcels are included as part of the request to develop a contiguous boundary to the Angola Neck Area; these parcels have been contacted by the developers and have agreed to the annexation. The parcels have proposed multiple pump stations and a wish to connect to the existing forcemain installed to service the Angola Neck Area; however, the Engineering Department plans to build new infrastructure to serve the area and pay for the construction with the Use of Existing Infrastructure Agreements for the projects. Mr. Ashman reported that three (3) agreements have been executed (Bryton Simpler Farm, LLC, Insight Homes, LLC, and Double DB, LP) and funds covering the existing infrastructure contribution have been received. The improvements contributions are due within thirty (30) days after Council's approval. Each agreement is based on the pro-rata share of the equivalent dwelling units proposed for the respective project, including any additional off-site parcels required to be served by County Code. In addition, the Engineering Department requests to engage the Engineer of Record, Solutions IPEM, Inc., for the project containing the common pump station, i.e. Headwater Cove.

M 523 18
Approve
Use of
Existing and
Proposed
Infra-
structure
Agreements

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Sussex County Council approves the three (3) separate Use of Existing and Proposed Infrastructure Agreements with Bryton Simpler Farm, LLC, Insight Homes, LLC, and Double DB, LP for a capacity catch-up contribution and improvements contribution, as presented.

Motion Adopted: 5 Yeas.

**M 523 18
(continued)**

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

**M 524 18
Approve
Surveying,
Engineering,
and General
Consultation
Agreement**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Surveying, Engineering, and General Consultation Agreement between Sussex County and Solutions Integrated Planning Engineering & Management, Inc. (Solutions IPPEM, Inc.) for final engineering approval of the core infrastructure for the Robinsonville Road Area, as presented.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council's consideration.

**M 525 18
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$2,500.00 (\$1,250.00 each from Mr. Wilson's and Mr. Vincent's Councilmanic Grant Accounts) to the Woodbridge High School Marine Corps JROTC Booster Club for the 5K event fundraiser.

Motion Adopted: 5 Yeas.

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

**M 526 18
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,500.00 from Mr. Burton's Councilmanic Grant Account to the Greater Lewes Foundation for the Cape Community Fund (Neighbors Helping Neighbors Project).

Motion Adopted: 5 Yeas.

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

**M 527 18
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$600.00 (\$500.00 from Mr. Vincent's Councilmanic Grant Account and \$100.00 from Mr. Cole's Councilmanic Grant Account) to the Woodland School House Association for the Woodland Heritage Festival.

Motion Adopted: 5 Yeas.

**M 527 18
(continued)** **Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea**

M 528 18 **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$600.00**
Council- **from Mr. Vincent’s Councilmanic Grant Account to the City of Seaford**
manic **for the Police Department’s Annual Night Out Against Crime & Drugs.**
Grant

Motion Adopted: 5 Yeas.

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

Council
Members’
Comments

Council Members’ Comments

**Mr. Arlett expressed appreciation for the invitation to a White House
Conference with Delaware State and Local Leaders.**

M 529 18 **At 11:18 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett,**
Go Into **to recess the Regular Session and go into Executive Session to discuss**
Executive **matters relating to pending/potential litigation and land acquisition.**
Session

Motion Adopted: 5 Yeas.

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

Executive **At 11:24 a.m., an Executive Session of the Sussex County Council was**
Session **held in the Basement Caucus Room for the purpose of discussing matters**
 relating to pending/potential litigation and land acquisition. The
 Executive Session concluded at 1:25 p.m.

M 530 18 **At 1:35 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton,**
Reconvene **to come out of Executive Session and reconvene the Regular Session**
Regular
Session

Motion Adopted: 3 Yeas, 2 Absent.

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

E/S
Action

There was no action on Executive Session matters.

Mr. Arlett and Mr. Wilson joined the meeting.

Rules

Mr. Moore read the rules for public hearings.

**Public
Hearing/
CU 2139**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE WAREHOUSE FOR SMALL CONTRACTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS” (Conditional Use No. 2139) filed on behalf of Arctec Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2018 at which time action was deferred. On September 13, 2018, the Commission recommended approval with the following conditions:

- A. The project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats, RVs, or equipment within the site.**
- B. There shall be no retail sales from the property.**
- C. No vehicle repair or fueling operations shall be performed on site.**
- D. There shall be no manufacturing on the site.**
- E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.**
- H. The parking areas may be crusher run and there shall be an adequate area for all tenants and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. In addition, any vehicles parked overnight shall be located on the west end of the block building located on the site.**
- I. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.**
- J. As required by Conditional Use No. 1693 and Ordinance No. 1918, there shall be a vegetated buffer along the northern side of the site. The buffer shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 23 and September 13, 2018.)

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

It was noted that an Exhibit Booklet was previously submitted by the Applicant.

**Public
Hearing/
CU 2139
(continued)**

The Council found that Mike Smith, Attorney, was present with the Applicant, Jeremy Booros (principal member of Arctec Properties LLC. Mr. Smith discussed: (1) the property which consists of 4.74 acres, the majority of which is wetlands (2) the current and proposed improvements on the site, (3) the Applicant's submittal to DelDOT and DelDOT's response, (4) the application's overlap of a prior application (Ordinance No. 1918) that has expired, (5) the conditions of the prior application and the Applicant's agreement to them, and (6) other commercial uses in the area.

In response to questions, Ms. Cornwell stated that the Applicant was not cited for a violation; that the building on the site was permitted as a personal use storage building and that the Applicant will have to work with Building Code to convert it to a commercial structure.

Andy Wright, Building Code Supervisor, was present and responded to questions regarding the conversion of the building from personal to commercial.

It was noted that DelDOT's letter referenced the wrong address (not the address for this application).

There were no public comments.

The Public Hearing and public record were closed.

**M 531 18
Add New
Condition**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to add Condition L to state that "The Applicant shall immediately start action to bring the building into compliance and it shall be completed within nine months of this date. If it is not completed during this time period, then the current use must cease and the Applicant must bring the property into compliance prior to the Final Site Plan approval."

Motion Adopted: 5 Yeas.

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

**M 532 18
Adopt
Ordinance
No. 2601/
CU 2139**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2601 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE WAREHOUSE FOR SMALL CONTRACTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS" (Conditional Use No. 2139) filed on behalf of Arctec Properties, LLC, with the following conditions, as amended:

**M 532 18
Adopt
Ordinance
No. 2601/
CU 2139
(continued)**

- A. The project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats, RVs, or equipment within the site.**
- B. There shall be no retail sales from the property.**
- C. No vehicle repair or fueling operations shall be performed on site.**
- D. There shall be no manufacturing on the site.**
- E. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- H. The parking areas may be crusher run and there shall be an adequate area for all tenants and employees as required by Code. The parking areas shall be clearly shown on the Final Site Plan and on the site itself. In addition, any vehicles parked overnight shall be located on the west end of the block building located on the site.**
- I. One lighted sign shall be permitted. It shall not be larger than 32 square feet per side.**
- J. As required by Conditional Use No. 1693 and Ordinance No. 1918, there shall be a vegetated buffer along the northern side of the site. The buffer shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- L. The Applicant shall immediately start action to bring the building into compliance and it shall be completed within nine months of this date. If it is not completed during this time period, then the current use must cease and the Applicant must bring the property into compliance prior to the Final Site Plan approval.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2140**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCKING BUSINESS, LANDSCAPE AND MATERIAL STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 2140) filed on behalf of Santay Trucking c/o Samuel Connors (Tax I.D. No. 230-31.00-27.00, 27.01 and 27.02) (911 Address: 14292 DuPont Blvd., Ellendale).

**Public
Hearing/
CU 2140
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2018 at which time action was deferred. On September 13, 2018, the Commission recommended approval with the following conditions:

- A. The use shall be limited to the type of trucking operation with landscape and material storage of the type that has occurred on the site for decades. This includes the existing structures on the site.**
- B. As stated by the Applicant, no sign was requested, so no sign is permitted.**
- C. As stated by the Applicant, no retail sales shall occur on the site.**
- D. All petroleum products, lubricants and similar fluids shall be properly stored and disposed of in accordance with all state and federal requirements.**
- E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 23 and September 13, 2018.)

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

The Council found that Larry Fifer, Attorney, was present with Sam Connors, the Applicant, and Kevin Smith of the Kerscher Group. Mr. Fifer discussed the following: (1) the use as a trucking business and for landscape and material storage, (2) the use of the property for the same purpose for the past 40 years, (3) the buildings located on the property, (4) the use consisting of three parcels, the past history of the site including the subdivision of the property in the past, and their wish to re-combine the parcels; and (5) the surrounding area.

Mr. Cole suggested a new condition to require a 20 foot buffer from the highway in the area of the existing use and if the use is expanded, a 40 foot buffer from the highway to the expanded area.

There were no public comments.

**M 533 18
Add New
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to add Condition F, as follows: "If the usage is expanded beyond the current area, there shall be a 40 foot front wooded buffer."

Motion Adopted: 5 Yeas.

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

**M 534 18
Adopt
Ordinance
No. 2602/
CU 2140**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2602 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCKING BUSINESS, LANDSCAPE AND MATERIAL STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 2140) filed on behalf of Santay Trucking c/o Samuel Connors, with the following conditions, as amended:

- A. The use shall be limited to the type of trucking operation with landscape and material storage of the type that has occurred on the site for decades. This includes the existing structures on the site.**
- B. As stated by the Applicant, no sign was requested, so no sign is permitted.**
- C. As stated by the Applicant, no retail sales shall occur on the site.**
- D. All petroleum products, lubricants and similar fluids shall be properly stored and disposed of in accordance with all state and federal requirements.**
- E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- F. If the usage is expanded beyond the current location, there shall be a 40 foot front wooded buffer.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1855**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.51 ACRES, MORE OR LESS” (Change of Zone No. 1855) filed on behalf of Kirk Salvo, KH Sussex, LLC (Tax I.D. No. 234-11.00-56.09, 56.03, and 56.02) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2018 at which time action was deferred. On September 13, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 23 and September 13, 2018.)

**Public
Hearing/
CZ 1855
(continued)**

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

The Council found that Dennis Schrader was present with Kirk Salvo, Applicant, and Mike Riemann with Becker Morgan Group. Mr. Schrader and Mr. Reimann discussed the following: (1) the rezoning request to the C-3 zoning classification, (2) the parcels that are a part of the application – approximately 4 acres and an assemblage from 4 different owners, (3) a reference to Conditional Use No. 1881 (Ennis parcel), (4) plans for a convenience store with gasoline sales, (5) sewer and water, (6) other commercial uses in the area, (7) the convenience and benefits the proposed use will provide to the residents of the area, (8) DeIDOT’s response that a Traffic Impact Study is not required, (9) DeIDOT’s requirements for access to the site, (10) DeIDOT’s plans to improve the intersection, (11) traffic analysis, and (12) lighting and signage.

Public comments were heard.

There were no public comments in support of the application.

Richard Raynic, Curt Smith, Eul Lee, Beth Ewell, Jerry Sideman, Jerry LaForgia, Donna Whiteside, Lionel Coven, and Jim Sherlock spoke in opposition to the application, expressing concerns and raising questions about the following: traffic and traffic patterns, timeline for planned road and intersection improvements, hazardous intersection and road conditions; clarification of a major arterial roadway, growth in the area and approved developments in the area, the proposed entrance/exit for the site, setting a precedent, no need for another convenience store, the culvert, tanker trucks and delivery trucks entering and exiting the site, criminal activity in the area, hours of operation, proposed use not compatible with the surrounding area, negative impact on home values; and the need for an Adequate Public Facilities Ordinance.

There were no additional public comments.

Ms. Cornwell reported on the receipt of an email from DeIDOT on this date (during the time the Public Hearing was being held). In the letter, DeIDOT requests that “Council table the decision on this zoning change request until such time that the traffic impacts in this highly sensitive area can be discussed with DeIDOT”.

Mr. Schrader objected to the submittal of the email during the Public Hearing and explained his reasons for the objection.

Mr. Moore suggested that the record be held open for one or two weeks for Mr. Schrader to have an opportunity to respond to DeIDOT’s letter (received on this date).

The Council discussed the deferral of action on the application to allow time for DeIDOT’s email to be reviewed by the Applicant and the public.

The Public Hearing was closed.

**M 535 18
Leave
Record
Open/
CZ 1855**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to leave the public record open on Change of Zone No. 1855 for 2 weeks for anyone to submit a written comment on the DelDOT email (received on September 25, 2018) and to allow time for the Council to submit questions to DelDOT (in writing).

[It was noted that, thereafter, the record may remain open for a period of time for anyone to respond in writing to the written comments received.]

Motion Adopted: 5 Yeas.

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

**M 536 18
Defer
Action/
C/Z 1855**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to defer action on Change of Zone No. 1855.

Motion Adopted: 5 Yeas.

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

**M 537 18
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to adjourn at 3:35 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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