

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 26, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 26, 2017, 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 474 17
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to approve the agenda, as posted.

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 19, 2017, were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

CHEER, INC., GEORGETOWN, DELAWARE.

RE: Letter in appreciation of donation in support of their organization and annual car show.

**Public
Comments**

Public Comments

Dan Kramer commented on the proposed installation of a metal detector in the County Administrative Offices building.

**U of D
Cooperative
Extension
Programs**

Mark Isaacs, Director, University of Delaware Carvel Research and Education Center, thanked Council for its continued support of all the programs at the Carvel Research and Education Center. Dr. Isaacs gave an overview of how the County's funding is used by the Center in Sussex County: Extension Programs, Family Consumer Sciences, Production Agriculture

**U of D
Cooperative
Extension
Programs
(continued)**

Programs, Lasher Lab Poultry Research, Crop Programs, and Safety Programs, as well as the Internship Program which was first funded by Sussex County last year. A video was shown of Sussex County interns Parker O'Day and Spencer Murray thanking Council for their support of the Internship Program and the opportunity they were provided to participate. The Council presented a check to Dr. Isaacs for the University of Delaware Carvel Research and Education Center. Dr. Isaacs noted that all funds are used in Sussex County to support the agricultural community.

**Consent
Agenda**

Mr. Vincent presented the items listed under the Consent Agenda for Council's consideration.

**M 475 17
Approve
Consent
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 952-1
Sussex County Project No. 81-04
Sussex West – Phase 2
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 623-4
Sussex County Project No. 81-04
The Solitude on Whites Creek – Phase 1
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 446-8
Sussex County Project No. 81-04
Hopkins-Pettyjohn Subdivision (aka Red Mill Pond North) – Phase 6
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 1067
Sussex County Project No. 81-04
Americana Bayside – Phase 13
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement No. 1027-2
Sussex County Project No. 81-04
Silverwoods – Force Main
Miller Creek Sanitary Sewer District**

**Wastewater Agreement No. 685-5
Sussex County Project No. 81-04
Overlook (aka Bayville Pointe), Phase 4
Fenwick Island Sanitary Sewer District**

Motion Adopted: 5 Yeas.

**M 475 17
(continued)**

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

**Public
Interview**

The Council conducted a public interview for Board of Adjustment nominee Bruce Mears.

**M 476 17
Approve
Appointment/
Board of
Adjustment/
Bruce
Mears**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of Bruce Mears to the Sussex County Board of Adjustment, effective immediately, until such time as the term expires in June 2020.

Motion Adopted: 5 Yeas.

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

Mr. Mears will be the District 4 appointment, replacing retiring Board of Adjustment member Norman “Bud” Rickard.

**Sussex
Sports
Center
Founda-
tion
Presenta-
tion**

Mr. Lawson reported that the County has been approached by a nonprofit foundation, the Sussex Sports Center Foundation, seeking the County’s support with its pursuit of constructing a sports facility for County residents and visitors to be located just outside the Town of Georgetown (but within Town limits) on Sand Hill Road. Mr. Lawson introduced Zac Crouch, Joe Schell, and Bobby Horsey for a presentation on the proposal for the Sussex Sports Center complex.

An overview of the project, which will consist of playing fields for soccer, lacrosse, field hockey, and informal touch football games, pickleball courts, walking trails designed to also serve as a cross country course for high school and middle school competition, a picnic area, and playground equipment for younger children, was provided. It was noted that Sussex County lacks a recreation center on this scale despite the fact that there is a growing demand from a rapidly growing population of both young families and recent retirees. The plan is to locate the facility towards the middle of the County so youth sports clubs and citizens throughout Sussex County will have a convenient place to exercise, socialize, practice, hold games, and host tournaments with clubs from the mid-Atlantic region. The Sussex County facility will focus on providing a variety of amenities for the recreational use of Sussex County residents and visitors of all ages.

The permitting, design, and construction phases of the project, timeframe for completion, and financing were discussed.

The foundation is proposing a public/private partnership with the County and is asking the County to provide \$1.5 million in financial support for the

Sussex
Sports
Center
Founda-
tion
Presenta-
tion
(continued)

\$4 million project, with the option to eventually take over ownership of the athletic and recreation complex. Of that \$4 million, \$250,000 will be used to purchase two parcels of land for improvements to the intersection at Route 9 and Sand Hill Road, which will be beneficial to the entire County, and \$350,000 will be set aside for a reserve fund. The agreement to provide financial support by the Sussex County Council is an important prerequisite to fundraising from the State of Delaware, Town of Georgetown, and the private sector (private foundations, businesses, and individuals).

Questions were raised by Council concerning parking, intersection improvements, the pickleball courts, use of the facility for tournaments, possible phasing of the project, impact on existing clubs, and County budget funding.

Council would like to receive feedback from the public on this multi-million-dollar project as they consider the foundation's proposal. To that end, information will be provided on the County's website as to how members of the public can offer comment; namely, by email, in writing (mailed to the Sussex County Council), or by providing testimony in person at the start of any scheduled County Council meeting (limited to three minutes per person).

Adminis-
trator'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. Sussex County Comprehensive Land Use Plan Workshop

The Sussex County Planning & Zoning Commission will host the next workshop on the Comprehensive Land Use Plan on Wednesday, September 27, 2017. Updates will be provided on the Intergovernmental Coordination Housing, Transportation, and Future Land Use Elements.

Administrator's Report (continued)

The workshop begins at 9:00 a.m. and will take place in the County Council Chambers located on The Circle in Georgetown. The agenda is attached, and public comment will be taken at the beginning of the meeting.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for August 2017 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for the month of August.

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

Healthcare Provider Agreement/DTCC

Robbie Murray, EMS Deputy Director of Operations, presented for Council's consideration a Healthcare Provider Agreement with Delaware Technical Community College (DTCC). Mr. Murray explained that during September of 2015, staff of DTCC contacted Sussex County EMS staff to gauge their interest in allowing nursing students the opportunity to spend one clinical rotation accompanying Sussex County paramedics, which has proven to be a success for both organizations. Nursing students have shadowed paramedics at special events and during their regular shifts at paramedic stations throughout the County. The Healthcare Provider Agreement is required by DTCC as part of their accreditation process.

**M 477 17
Execute Healthcare Provider Agreement/DTCC**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council execute the Healthcare Provider Agreement with Delaware Technical Community College Nursing Department which will allow their healthcare students the opportunity to participate in clinical rotations with Sussex County EMS.

Motion Adopted: 5 Yeas.

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

Aeronautical Obstruction Removal/Bid Results

Jim Hickin, Director of Airport and Industrial Park, presented bid results for Project No. 18-01, Aeronautical Obstruction Removal. Mr. Hickin reported that the project will address obstructions that have been identified through an aeronautical survey conducted by the FAA approximately a year ago which are critical to the future of the Sussex County Airport.

One bid was received for the project from Strobert Tree Services in the base bid amount of \$65,810.00. Mr. Hickin advised that the project will consist of cutting six areas of trees totaling five acres and nearly 50 isolated,

Bid Results (continued) individual trees. Three of the six areas are south of Park Avenue and three are along the railroad tracks near Sports at the Beach. Individual trees are all south of Park Avenue, spread over a wide area. The Engineering Department recommends award of the project to Strobert Tree Services in the base bid amount of \$65,810.00.

M 478 17 Award Bid/ Aeronautical Obstruction Removal A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the base bid for Contract 18-01, Aeronautical Obstruction Removal, be awarded to Strobert Tree Services of Wilmington, Delaware, for a total amount of \$65,810.00.

Motion Adopted: 4 Yeas; 1 Nay.

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

Report on Receipt of Additional Information/ CU 2075 Janelle Cornwell, Planning and Zoning Director, reported on Conditional Use No. 2075 filed on behalf of Burton's Pond, LLC (Burton's Pond Section II), including the Planning and Zoning Commission's recommendation of approval. The County Council held a Public Hearing on this application on June 13, 2017, at which time action was deferred to request additional information from DeIDOT regarding the timing of (schedule for) a traffic signal at the Sloan Road intersection.

Ms. Cornwell stated that DeIDOT advised that signals are not installed until they are justified through a Signal Justification Study that evaluates national and localized thresholds provided in the Manual on Uniform Traffic Control Devices (MUTCD).

Mr. Moore advised that the application will need to be placed on a future Council agenda for action.

Request for Time Extension/ CZ 1747 Janelle Cornwell, Planning and Zoning Director, reported on a time extension request for Change of Zone No. 1747 filed on behalf of Oceanside Vista (fka The Preserve at Cedar Landing). The Change of Zone was granted approval by the Council on July 22, 2014, for a MR-RPC for the construction of 45 single-family dwellings. Ms. Cornwell reported that the application meets the qualifications for a six-month time extension so that the project can proceed with construction and establishing that they have the project substantially underway prior to the termination of the six-month time extension, if granted.

At the meeting on September 19, 2017, Council deferred action on the time extension request for one week to receive additional information regarding the timeframe of submissions to the Sussex Conservation District.

Ms. Cornwell reported that the Applicant has been working on obtaining approval for stormwater management for approximately three years, and

**Request/
CZ 1747
(continued)** that approval was received from the Sussex Conservation District on September 15, 2017. It is the recommendation of the Planning and Zoning Director that the time extension be granted.

**M 479 17
Approve
Time
Extension/
CZ 1747** A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Planning and Zoning Director, that the Sussex County Council approves a one-time six-month time extension, until March 11, 2018, for Change of Zone No. 1747 filed on behalf of Oceanside Vista (fka The Preserve at Cedar Landing).

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU 2085** The Council considered Conditional Use No. 2085 filed on behalf of Land and Marketing Corporation.

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017, at which time action was deferred; on July 27, 2017, the Commission recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated July 13 and July 27, 2017.)

Janelle Cornwell, Planning and Zoning Director, reported that the County Council held a Public Hearing on this application on August 22, 2017, at which time action was deferred for the purpose of receiving a response to a sewer capacity question (submitted to the Sussex County Engineering Department), with the record remaining open for a period of ten days for a written response; and further, once the written response is received, the record will remain open for a period of one week for the Applicant to have the opportunity to respond.

Ms. Cornwell stated that a response was received from the Engineering Department indicating the Department has been permitting additional capacity to projects within the County.

Mr. Moore read the title of the Proposed Ordinance.

**M 480 17
Adopt
Ordinance
No. 2519/
CU 2085** A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2519 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.16

**M 480 17
(continued)**

ACRES, MORE OR LESS” (Conditional Use No. 2085) filed on behalf of Land and Marketing Corporation with the following conditions:

- A. The maximum number of residential units shall be 19.**
- B. All entrances, intersection, roadways and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Department requirements, including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas.**
- F. All construction and site work on the properties, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- G. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- H. The Applicant shall form a homeowners’ or condominium association responsible for the perpetual maintenance of the streets, road, any buffers or landscaping, stormwater management facilities, erosion and sediment control facilities, and other common elements.**
- I. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- J. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas; 1 Absent.

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

**Lewes
Board of
Public
Works
Construc-
tion
Agreement**

Hans Medlarz, County Engineer, referenced a September 20, 2016, agreement with the Lewes Board of Public Works (BPW) for wastewater treatment and disposal. As part of the agreement approval, the Board requested to utilize George, Miles & Buhr, Inc., the Board’s Engineer of Record, for the design of any transmission improvements along Gills Neck Road on a reimbursement basis. In addition, the Engineering Department proposed implementation of said transmission improvements via the General Labor & Equipment Contract. Council concurred in both requests.

Lewes Board of Public Works Construction Agreement (continued)

On August 29, 2017, the Engineering Department presented the Lewes Board of Public Works' request to conduct the Phase 1C and 1B(2) work as part of the County's Gills Neck Road project, as well as Scope Modification Change Order No. 6 to the General Labor & Equipment Contract. Council approved both requests; however, the assistance request was contingent upon approval of a subsequent Construction Agreement by both parties.

The Lewes Board of Public Works approved the Construction Agreement on September 19, 2017, without further modifications. The Board further requested that the contractor add the Lewes Board of Public Works as an additional insured. The Engineering Department is requesting approval of the Construction Agreement and concurrence in the request for the additional insurance from the contractor.

M 481 17 Approve Lewes Board of Public Works Construction Agreement

A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Council approve the Construction Agreement with the Lewes Board of Public Works as presented, and authorizes the Engineering Department to request the addition of the Lewes Board of Public Works as an additional insured from the General Labor & Equipment Contractor.

Motion Adopted: 5 Yeas.

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

Request to Prepare and Post Notices

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Pratt Expansion of the Sussex County Unified Sanitary Sewer District (Bay View Estates Area). The Engineering Department received a request from the property owner of Parcel 533-19.00-56.00 who is interested in having the County extend the boundary. Mr. Ashman reported that the parcel is adjacent to a County sewer district, and the Engineering Department has planned capacity for the parcel. A lateral was installed for the parcel as part of a previous project in the area. The project will be responsible for system connection charges in place at the time of connection.

M 482 17 Post Notices/Pratt Expansion

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Engineering Department is authorized to prepare and post notices for the Pratt Expansion of the Sussex County Unified Sanitary Sewer District (Bay View Estates Area), Parcel 533-19.00-56.00, 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** **Mrs. Jennings presented a grant request for the Council’s consideration.**
- M 483 17** **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give**
Countywide **\$2,500.00 from Countywide Youth Grants to the Georgetown Little League**
Youth **for a sign to be erected at the little league park honoring the Delaware**
Grant **District III Girls’ Softball Team upon winning the 2017 Senior League**
 World Series title and for other costs.
- WITH-**
DRAWN **The Motion and Second were withdrawn.**
- Action** **Action was deferred on the request from the Georgetown Little League to**
Deferred **allow Mrs. Jennings to obtain a breakdown on the cost of the sign and other**
 costs.
- Council** **Council Members’ Comments**
Members’
Comments **Mr. Arlett commented on an email received from Heron Bay regarding**
 concerns of the homeowners. Mr. Lawson stated that the Engineering
 Department is addressing those concerns and a report will be forthcoming.
- Mr. Arlett commented on public testimony received on this date regarding**
 proposed security screening for the County Administrative Offices building
 and Title 9 as it pertains to said screening.
- M 484 17** **At 12:26 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton,**
Recess **to recess until 1:30 p.m.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;**
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea
- M 485 17** **At 1:38 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to**
Reconvene **reconvene.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;**
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Vincent, Yea
- Rules** **Mr. Moore read the Rules of Procedure for public hearings.**
- Public** **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2092 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE**
 STAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING

**Public
Hearing/
CU 2092
(continued)**

AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.9 ACRES, MORE OR LESS” (Conditional Use No. 2092) filed on behalf of Timothy Robinson (Tax I.D. No. 332-1.00-67.01) (911 Address: 32129 Gordy Road, Laurel).

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

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2017, at which time action was deferred; on September 14 2017, the Commission recommended that the application be approved with the following conditions:

- A. Sales shall only occur during daylight hours.**
- B. Sales shall be limited to one week prior to Easter Sunday through November 1.**
- C. The Applicant shall comply with any DelDOT requirements associated with the use.**
- D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- E. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- F. The Applicant shall provide for interconnectivity if the adjacent properties are ever developed.**
- G. The failure to abide by these conditions shall result in the termination of this Conditional Use.**
- H. 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 24 and September 14, 2017.)

The Council found that Timothy Robinson was present on behalf of the application. He stated that the produce stand/retail sales will be his retirement; that he plans to sell homemade furniture; that he is planning on having a pick-your-own section; that there is currently one greenhouse on the site along with a stand; that he will be growing produce on the site and bringing in other produce to sell; that he is looking to be open from Easter to Labor Day with possible fall functions and events; that he currently has a sign on the site that he would like to keep; that there is potential interconnection with the parcel to the north; and there is commercial zoning and uses in the area.

Mr. Moore noted that the application is for a produce stand which typically includes fruits, vegetables, and goods of that nature, Christmas trees and wreaths. Mr. Moore stated that at some point in the future if the Applicant pursues the sale of craft items on a larger scale, the conditions may have to be expanded.

**Public
Hearing/
CU 2092
(continued)**

There were no public comments.

The Public Hearing and public record were closed.

Mr. Moore read the title of the Proposed Ordinance.

**M 486 17
Approve
C/U 2092
WITH-
DRAWN**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve Conditional Use No. 2092 filed on behalf of Timothy Robinson.

The Motion and Second were withdrawn.

**M 487 17
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Condition E to read as follows: One sign, not to exceed 32 square feet per side, shall be permitted.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 488 17
Adopt
Ordinance
No. 2520/
CU 2092**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2520 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE STAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.9 ACRES, MORE OR LESS" (Conditional Use No. 2092) filed on behalf of Timothy Robinson with the following conditions, as amended:

- A. Sales shall only occur during daylight hours.**
- B. Sales shall be limited to one week prior to Easter Sunday through November 1.**
- C. The Applicant shall comply with any DelDOT requirements associated with the use.**
- D. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- E. One sign, not to exceed 32 square feet per side, shall be permitted.**
- F. The Applicant shall provide for interconnectivity if the adjacent properties are ever developed.**
- G. The failure to abide by these conditions shall result in the termination of this Conditional Use.**
- H. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**M 488 17
(continued)**

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

**Public
Hearing/
CU 2093**

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 LANDSCAPING BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS” (Conditional Use No. 2093) filed on behalf of John Huss (Tax I.D. No. 235-30.00-6.20) (911 Address: Not Available).

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

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2017, at which time action was deferred; on September 14, 2017, the Commission recommended that the application be approved with the following conditions:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property’s setbacks.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western**

**Public
Hearing/
CU 2093
(continued)**

- boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
 - L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
 - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 24 and September 14, 2017.)

The Council found that Glen Mandalas, Attorney with Baird Mandalas & Brockstedt, LLC, was present with John Huss on behalf of the application. They stated that a landscaping business is being proposed with equipment storage; that the Applicant would like to erect a 3,200-square-foot building for the storage of vehicles and equipment; that the building will be to the rear of the property; that all but perhaps three of the vehicles will be in the building; that three vehicles not located within the building will be stored behind the building and out of sight; that the hours of operation will be limited to 6:30 a.m. to 6:00 p.m. Monday through Saturday; that there are 13 employees; that the Applicant is typically on site around 6:30 a.m. to do paperwork and employees show up on site at 7:00 a.m., leave by 7:30 a.m., and come back no later than 5:30 p.m.; that employees pick up a work vehicle and leave so there is not a lot of traffic during the day; that they typically load and unload lawnmowers on trucks in the morning that may create some noise; that there will be no manufacturing or dyeing of mulch on site; there will be no storage of chemicals on the site; there will be no dumping on the site; that any dumpsters on the site will be screened from the view of neighboring properties and roadways; that they will use low-voltage lighting for security measures which also will be screened; that all of the trucks have tarps to cover the material; that the Deerwood subdivision with approximately 65 homes is across the street with some buffer; that the Beaver Dam community is further west; that to the east of the site is the Delaware Turkish Educational Foundation and they plan to plant an evergreen buffer; that to the west of the site is a 48-acre wooded area; that the Applicant is willing to move the gravel driveway that crosses the property line onto his property; that the gravel road has been on the site prior to purchase of the property and they are willing to remove it; that the Route 9 entrance will be the only access to the site; that he keeps a clean site; that the use is consistent with uses and zoning along Route 9; that they recognize the potential for interconnectivity with adjacent properties; and that there are no deed restrictions regarding the operation of a business on the site.

Ms. Cornwell reported that since the Public Hearing before the Commission, additional correspondence has been received in opposition to

**Public
Hearing/
CU 2093
(continued)**

the application from Chiauling Dick (Prettyman Road) expressing concerns with dust and traffic.

Discussion was held regarding the building setback and sign.

There were no public comments.

The Public Hearing and public record were closed.

Mr. Moore read the title of the Proposed Ordinance.

**M 489 17
Amend
Condition**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to amend Condition I to read: The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.

Motion Adopted: 5 Yeas.

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

**M 490 17
Amend
Condition**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend Condition C to read: One lighted sign, not to exceed 32 square feet, located on the side of the building shall be permitted.

Motion Adopted: 5 Yeas.

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

**M 491 17
Adopt
Ordinance
No. 2521/
CU 2093**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2521 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPE BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.740 ACRES, MORE OR LESS" (Conditional Use No. 2093) filed on behalf of John Huss with the following conditions, as amended:

- A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials, and also includes the dyeing of mulch or similar materials.**

**M 491 17
(continued)**

- C. One lighted sign, not to exceed 32 square feet, located on the side of the building shall be permitted.**
- D. The hours of operation shall be limited to 6:30 a.m. through 6:00 p.m. Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. The Applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. As stated by the Applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from view of neighboring properties and roadways.**
- I. The Final Site Plan shall clearly show all areas for equipment storage, and parking in these areas shall be clearly marked on the site itself; there shall not be any parking or storage within 60 feet of the front right-of-way line.**
- J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The Applicant has stated that the area of the existing dirt roadway along the western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.**
- K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.**
- L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2094**

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 CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.7774 ACRE, MORE OR LESS” (Conditional Use No. 2094) filed on behalf of Robert Downs (Tax I.D. No. 235-21.00-163.01 (portion of) (911 Address: 15584 Walkabout Lane, Milton).

**Public
Hearing/
CU 2094
(continued)**

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

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2017, at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated August 24, 2017.)

The Council found that Harold Dukes, Attorney with Tunnell and Raysor, was present with Robert Downs on behalf of the application. They stated that it was the request of Mr. Downs' father to create the family cemetery; that the cemetery would be located near the house; that there is already a fence around the 3/4-acre parcel for the cemetery; that it would be for family only; that there are no plans to develop the area; that the Applicant and his family would like to be buried on the site; and that they will not sell any plots.

There were no public comments.

The Public Hearing and public record were closed.

**M 492 17
Adopt
Ordinance
No. 2522/
CU 2094**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2522 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.774 ACRE, MORE OR LESS" (Conditional Use No. 2094) filed on behalf of Robert Downs.

Motion Adopted: 5 Yeas.

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

**Letter of
Withdraw/
CU 2096**

Mr. Moore announced that a letter dated September 26, 2017, was received to withdraw Conditional Use No. 2096 filed on behalf of Capitol Buildings Shed Outlet.

**M 493 17
Allow
Withdraw
of CU 2096**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to allow the withdraw of Conditional Use No. 2096 filed on behalf of Capitol Buildings Shed Outlet.

Motion Adopted: 5 Yeas.

**M 493 17
(continued)** **Vote by Roll Call:** **Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 494 17 **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at**
Adjourn **2:25 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,

**Susan W. Webb
Administrative Secretary**

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