

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 1, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 1, 2024, at 12:00 p.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	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 509 24
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the agenda as presented.

Motion Adopted: 5 Yeas

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

Minutes

The minutes of the September 24, 2024, meeting were approved by consent.

Correspondence

Mr. Moore reported that correspondence was received from the Delaware State University Band Organization thanking Council for their donation.

**Public
Comments**

There were no public comments.

**Presentation
Carvel
Research
and
Education
Center**

Mark Isaacs, Director, Carvel Research and Education Center thanked Council for its continued support of all of the programs at the Carvel Research and Education Center. Mr. Isaacs gave an overview of how the County's funding is used by the Center in Sussex County: Extension Programs, Poultry Research, Lasher Lab, Crop Programs, Safety Programs and Internship Program. Mr. Isaacs noted that are funds are used in Sussex County to support the agricultural community.

**SCLT
Update**

Mr. Mark Chura provided an update on behalf of the Sussex County Land Trust. Mr. Chura reported that the Land Trust currently has 13 properties. Mr. Chura focused on providing an update for the parks and preserve throughout the County including Hudson Park, Nanticoke Crossing Park, Ickford Park, Hopkins Preserve and the Forest of the Broadkill Preserve.

Mr. Chura reviewed the funding that has been received from various sources. He then discussed new projects including the Ard Na Grene preserve and the Layfield tract.

Mr. Lawson announced that settlement occurred on the Layfield property last Friday. The County was successful in purchasing 165 acres located just northwest of Dagsboro.

Mr. Lawson then reviewed the property management agreement with the Sussex County Land Trust for the Forest on the Broadkill Preserve.

**M 510 24
Approve
Property
Manage-
ment/Forest
on the
Broadkill
Preserve**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, be it moved that Sussex County Council approves the property management agreement for the property known as the Forest on the Broadkill and further approves entering into said agreement with the Sussex County Land Trust.

Motion Adopted: 5 Yeas

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

Mrs. Jennings presented an ORPT grant submission Resolution for Hudson Park for Council's consideration.

**M 511 24
Adopt
Resolution/
Hudson
Park**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it resolved that the Sussex County Council hereby acknowledges its support of Hudson Park, approves and acknowledges the ORPT application and submission on behalf of Sussex County Land Trust for a 2024 DNREC ORPT grant in the amount of \$125,000 and furthermore designates the Sussex County Land Trust Executive Director to serve as the ORPT grant project manager if the grant is awarded.

Motion Adopted: 5 Yeas

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

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: The Estuary – Phase 4D (Construction Record) and The Estuary Phase 4E (Construction Record) effective September 18th.

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

2. Wings & Wheels

Sussex County is excited to have Delaware Coastal Airport serve as host of the 15th annual Wings & Wheels Fall Festival, which is set for Friday, Oct. 4, and Saturday, Oct. 5, at the airport just outside Georgetown. Sponsored by the Georgetown Chamber of Commerce, Wings & Wheels has become a mainstay on the fall festival circuit here in Sussex County. This year's festivities begin with a Friday Night Beach Party full of food and fun music, from 6 to 10 pm, with proceeds from tickets benefiting the Pathways to Aviation program. The main event is Saturday, beginning at 10 a.m. and lasting through 4 p.m., with attractions of new and classic cars on display, and an array of aircraft on the ground and in the skies above. There will be demonstrations, including World War II re-enactments, parachute jumps, and the fan favorite "flour bombing" competition, as well as music, food trucks, and much more. While tickets are required for Friday night's Beach Party event, all of the activities on Saturday are free. For more information, including to purchase Beach Party tickets, as well as a complete schedule of events, visit www.wings-wheels.com.

3. Frances Susie

It is with great sadness that we inform you that pensioner, Frances Susie passed away on Thursday, September 19, 2024. Ms. Susie began her career with Sussex County in October 2006 where she worked until June 2020 for a total of 13 years of service. Her last position with the County was Library Assistant II. We would like to extend our condolences to the Susie family.

4. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, October 8th. The next regularly scheduled Council meeting will be held on Tuesday, October 15th at 10:00 a.m.

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

**Paramedic
Station 103**

Mark Parker, Assistant County Engineer presented change order no. 3 for Paramedic Station 103 for Council's consideration. Mr. Parker reviewed the items that were included in the change order.

**M 512 24
Approve CO
No. 3/
Paramedic
Station 103**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department that County Council approve change order no. 3 in the net charge amount of \$9,437.36 increasing the total contract amount to \$1,828,504.56.

Motion Adopted: 5 Yeas

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

Grant

Requests

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

**M 513 24
Developing
Artist
Collabora-
tion**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$2,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account and \$1,000 from Mrs. Green's Councilmanic Grant Account) to Developing Artist Collaboration for the West Rehoboth wall restoration.

Motion Adopted: 5 Yeas

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

**M 514 24
Seaford
Music and
Education
Institute**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,000 (\$2,000 from Mr. Vincent's Councilmanic Grant Account) to Seaford Music and Education Institute for affordable music lessons.

Motion Adopted: 5 Yeas

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

**M 515 24
American
Legion Post
8, Inc.**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$2,000 (\$2,000 from Mr. Rieley's Councilmanic Grant Account) to American Legion Post 8, Inc. for Georgetown EMS Return Day coverage.

Motion Adopted: 5 Yeas

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

**Proposed
Ordinance
Introduct-
ion**

Mr. Schaeffer introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTIFAMILY DWELLINGS (5 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.45 ACRES, MORE OR LESS" filed on behalf of Mason Hayes.

Proposed Ordinance Introduction (continued)

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION D FOR CONDITIONAL USE NO. 2264 (ORDINANCE NO. 2813) RELATING TO THE PERMITTED DAYS AND HOURS OF OPERATION FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRE, MORE OR LESS” filed on behalf of Lauden Investments, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.31 ACRES MORE OR LESS” filed on behalf of Toney Floyd & Charletta Speaks-Floyd.

The Proposed Ordinances will be advertised for a public hearing.

Council Member Comments

Mr. Rieley commented about the good work that the Sussex County Land Trust is currently doing. Mr. Rieley requested an update on Ordinances that he would like to see move forward as mentioned previously. Mr. Lawson replied that after the last meeting when it was mentioned, he met with Mr. Whitehouse and the attorneys and identified two proposed Ordinances that will be brought forward at the next meeting.

Mr. Schaeffer thanked the Sussex County Land Trust for everything that they do.

Mr. Vincent recommended that Mr. Lawson and Mrs. Jennings go to Dover in January to have RTT added so that it can be used for farmland preservation.

M 516 24 Go Into Executive Session

At 12:54 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 5 Yeas

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

Executive Session At 12:59 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition. The Executive Session concluded at 2:05 p.m.

M 517 24 Reconvene At 2:08 p.m., a Motion was made by Mrs. Green, seconded by Mr. Hudson to come out of Executive Session back into 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 518 24 E/S Action/ Parcel 2024-R A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to authorize the County Administrator to negotiate, enter into a contract and proceed to closing for a parcel identified as 2024-R.

Motion Adopted: 4 Yeas, 1 Nay

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

Public Hearing/ Starlight Meadows A Public Hearing was held for the Proposed Starlight Meadows Pavement Improvements Assessment Roll.

Mark Parker, Assistant County Engineer reported that Starlight Meadows is a community consisting of thirty-four parcels located off Williams Farm Road just north of the Town of Milton. The HOA for Starlight Meadows originally requested assistance from the County on January 11, 2023. Following the provisions of the Code, the Engineering Department to date has performed the following actions:

- Determined that the community meets eligibility criteria as defined in the Code
- Petitioned all assessable property owners within the Community regarding inclusion in the SCI Program
- Provided a preliminary cost estimate for road repair and improvements
- Provided the approximate costs to property owners in both lump sum and 10-year repayment options
- Provided advance notification and conducted a community meeting to discuss and receive comments regarding the SCI Program, estimated project costs, and subsequent election process necessary for project implementation

An official election was completed, and it was found that majority of owners that voted desired to move forward with the project. The Engineering Department then completed project design, developed bidding documents, the project was put out to bid and awarded to the lowest responsible bidder.

Public Hearing/ Starlight Meadows (continued)

The Engineering Department oversaw the project during construction and facilitated the close out. Based on the final cost of the project (\$191,078.01), the Engineering and Finance Departments developed a proposed assessment roll which identifies an equal sharing of the total project balance amongst 34 parcels that are in the community. The proposed assessment roll proposes a lump sum assessment of \$5,619.94 and \$745.59 for an annual financed amount.

Mr. Rieley questioned if there are any assistance programs for anyone that had a financial hardship.

Public comments were heard.

Ms. Christine O'Connor spoke about the Proposed Resolution; that there were some discrepancies on the amount and asked for clarification. Mr. Parker replied that part of the process is a requirement for public bidding. The Engineering Department puts together preliminary estimates which is gathered and then it is conveyed to the community at the petition stage and the community meeting stage. The estimate is then later refined by County Engineering personnel at the election stage which is what the residents vote on. In this case, the lowest bidder was higher than the estimate which the County does not have control over. At that time, the HOA board is notified and they confirmed in writing that they wished to move the project forward. When the project was built, the cost of the project then came in lower than the bid. The final program numbers and estimate are based on the actual construction cost.

The Public Hearing and public record were closed.

M 519 24 Adopt Resolution R 020 24/ Starlight Meadows

A Motion was made by Mrs. Green, seconded by Mr. Rieley to Adopt Resolution No. R 020 24 entitled "A RESOLUTION ADOPTING THE UNIFORM ASSESSMENT ROLL FOR THE PURPOSE OF BILLING FINAL COSTS OF THE STARLIGHT MEADOWS PAVEMENT IMPROVEMENTS CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT PROJECT T24-07".

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 public hearings.

Public Hearing/ CU2406

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR VEHICLE STORAGE, MAINTENANCE, AND REPAIRS TO BE LOCATED ON A CERTAIN

**Public
Hearing/
CU2406
(continued)**

PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.43 ACRES MORE OR LESS” (property lying on the west side of Collins Street within the Collins Russell Subdivision, accessed from the north side of Milton Ellendale Highway [Rt. 16], approximately 0.5 mile west of Mulberry Street) (911 Address: 14400 Collins Street, Milton) (Tax Map Parcel: 235-14.00-43.01) filed on behalf of Monish Malhotra.

The Planning & Zoning Commission held a Public Hearing on the application on August 21, 2024. At the meeting of September 25, 2024, the Planning & Zoning Commission recommended denial of the application for the 9 reasons as outlined below.

- 1. Although this application seeks approval for vehicle maintenance, storage and repairs and was advertised for that purpose, it was apparent from the testimony during the public hearing that the primary use is intended to be for the operation of a medical transportation business that was not identified as part of the application. The vehicle parking, repairs and storage are associated with that main business.**
- 2. The site is within a residential subdivision that has developed over many years with single family homes. Although there is not a recorded prohibition against commercial uses within the subdivision, there is no evidence that other commercial uses exist in the subdivision other than within lots that have direct frontage along Route 16. This lot is an internal lot that does not have frontage upon Route 16.**
- 3. While there may be other activities in the subdivision that resemble a small business use, these are either home occupations or hobbies. There is nothing in the record to suggest that any other conditional uses have been approved for the internal lots within this subdivision.**
- 4. The Applicant’s proposed use would include the storage of vehicles including junked “donor cars” for use in the repairs of operational vehicles used in the Applicant’s medical transportation business and parked on the site. This residential subdivision is not an appropriate location for the storage of junked donor cars to be stripped for parts. This subdivision should not become a junkyard.**
- 5. This is not an appropriate location for vehicle repairs to occur as part of a transportation business. This is not the same thing as an individual working on personal cars. Instead, this is a transportation business that involves a fleet of cars in regular in use, and the wear and tear that occurs as a result. This volume of repairs is not suitable for a residential subdivision.**
- 6. I am not satisfied that there is sufficient space on the property for what the Applicant proposes, including the fleet of vehicles in use as part of the transportation business, the donor cars waiting to be stripped for parts, or the applicant’s own vehicles.**
- 7. I am not satisfied that there will be an adequate and safe provision for the collection and disposal of fluids associated with the repairs on the operational vehicles and the removal of parts from the donor**

**Public
Hearing/
CU2406
(continued)**

- vehicles. This is an even more of a concern where the proposed use is tucked within an existing residential subdivision.
8. It is not appropriate to approve this conditional use since the underlying medical transportation business that is intended to occur on this site is also neither appropriate nor approved at this location.
 9. There are other more appropriate locations for this use that are not within a residential subdivision and where the proposed use would be more consistent with the surrounding area.
 10. For all of these reasons, this conditional use application should be denied.

The Council found that Mr. Monish Malhotra spoke on behalf of his application; that during the meeting held on August 21, 2024, he explained the situation that he has non-emergency medical transport business; that he takes people to their medical appointments; that he can fix the cars himself; that the most expensive part of transport business is repairing the vehicles; that currently, they have 8-10 cars out on the road; that the cars are parked with the drivers; that on August 21st, he explained that he needs to park company cars sometimes especially the ones that he needs to hold onto in case there is a breakdown of a car; that he is only asking for an extra three cars to be parked at his residence; that there is a 30x33 building that was there when he purchased the property where he can do the minor repairs and maintenance; that there were some questions that were discussed later in the PZ Commission meeting; that he sent the answers to those questions; that it was questioned if the subdivision had a HOA; that there is not a HOA; that the property has its own well and septic tank; that there is a fence surrounding the backyard which includes the mental garage measuring 30x33 feet; that approximately half of their driveway is inside of the fenced area; that he has extended his driveway to ensure that proper parking is available; that the untagged vehicles will be inside of the fenced in area that will be used for parts; that the garage is equipped with a lift and a concrete floor; that all vehicles that are being worked on are to be brought into the garage; that he recycles all of the fluids; that he uses the oils to heat the shop in the winter; that the coolant he filters and uses it; that they are trying to be as organic as possible; that he included a letter that he sent to everyone before they signed in support of his application; that there is a commercial place across from his residence that have a business; that he submitted a video showing the commercial business; that the vehicles that are not drivable will not be able to be seen from the street; that his reason for the Conditional Use was due to the cars being parking on his property.

There were no public comments.

The Public Hearing and public record were closed.

**M 520 24
Adopt
CU2406/
DENIED**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to adopt an Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR VEHICLE STORAGE, MAINTENANCE, AND REPAIRS TO BE

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.43 ACRES MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Public
Hearing/
CU2438**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRE, MORE OR LESS” (property lies on the south side of Lighthouse Road [Rt. 54] approximately 525 ft. east of Dickerson Road [S.C.R. 389]) (911 Address: 33142 Lighthouse Road, Selbyville) (Tax Map Parcel: 533-18.00-68.00) filed on behalf of Robert Frey (Sandy Hill Acre, LLC).

The Planning & Zoning Commission held a Public Hearing on the application on August 21, 2024. At the meeting of September 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated and subject to the 8 recommended conditions as outlined.

The Council found that Mr. Robert Frey and Mrs. Gina Frey spoke on behalf of their application; that the intent is for this property to serve as a professional office space to rent; that it will be an interior design business; that this will support the local market in Sussex County and surrounding properties; that they do desire to have a sign; that the business is done by appointment only.

There were no public comments.

The Public Hearing and public record were closed.

**M 521 24
Adopt
Ordinance
No. 3047/
CU2438**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3047 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.99 ACRE, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

**M 521 24
Adopt
Ordinance
No. 3047/
CU2438
(continued)**

- 1. There is a home that currently exists on the property. This application seeks the allow the renovation of the existing home into a professional office.**
- 2. The property is located along Route 54 known as Lighthouse Road, which has developed into one of the main east-west roadways in Sussex County. This location is appropriate for this use as a small professional office.**
- 3. The applicant has stated that this site will only be used as a small office. There will not be any retail sales or other types of uses that generate excessive traffic to or from the site.**
- 4. There is no evidence in the record that the use would have any adverse effect on area roadways or neighboring properties.**
- 5. The property is located within the Developing Area according to the Sussex County Comprehensive Plan. Professional Offices like this are appropriate in this Area according to the Plan.**
- 6. No parties appeared in opposition to the application.**
- 7. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to use as a professional office.**
 - b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
 - c. The applicant shall comply with any DeIDOT entrance and roadway improvement requirements.**
 - d. Parking areas for all vehicles and equipment shall be shown on the Final Site plan and clearly marked on the site itself. No parking shall be allowed in the front yard setback.**
 - e. All dumpsters shall be screened from view of neighboring properties and roadways.**
 - f. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
 - g. Failure to comply with these conditions may result in the revocation of the Conditional Use approval.**
 - h. 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/
CU2361**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK TO OPERATE FOR A PERIOD EXCEEDING THREE DAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.115 ACRES, MORE OR LESS” (property lying on the northwest side of Central Avenue, approximately 160 feet southwest of Canal Crossing Road)

**Public
Hearing/
CU2361
(continued)**

(911 Address: 19840 Central Avenue, Rehoboth Beach) (Tax Map Parcel: 334-13.20-20.00) filed on behalf of Beachfire Brewing Co., LLC.

The Planning & Zoning Commission held a Public Hearing on the application on August 21, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons stated and subject to the 7 recommended conditions as outlined.

Mr. Rieley stepped out of the room due to a potential conflict.

The Council found that Ms. Mackenzie Peet, of Saul Ewing, spoke on behalf of the applicant which has been operating for the past 9 years in Sussex County; that Revolution operation of its business has had a transformative and positive impact on the community in particular Central Ave.

Mr. Rieley stepped out of the room due to a potential conflict.

Ms. Peet stated that they operate a microbrewery that operates on Central Ave; that there has been a lot of growth in the area; that there was prior approval for a food truck that was located on the parcel behind this site; that the lease expired and terminated; that in the code, Section 115-77, in the C1 district it allows for temporary vendor stands food trucks to operate between March 15 and November 15 for the sale of food and agricultural products subject to receipt of a temporary vendor permit; that a food truck located and operated outside this time frame, the March 15 and November 15, falls under the special events category, requiring a conditional use approval; that the code allows property owners to undertake certain uses by right while others require conditional use approval for uses that cannot be well adjusted to their environment; that the purpose of a conditional use is to ensure that public or semipublic uses which are essential and desirable for the communities, convenience and welfare are properly located and managed; that the food truck will continue to enhance the public character of the area located within this commercial district along with other public serving establishments, such as the outdoor special events venue and tomato sunshine; that during the PZ Commission meeting held on August 21, 2024, the Commission recommended approval of the application; that the applicant agrees with the conditions given; that there are no requested changes; that the application has received considerable support with 18 letters on the docket; that approval of the application was requested.

There were no public comments.

The Public Hearing and public record were closed.

**M 522 24
Adopt
Ordinance
No. 3048/**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3048 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK TO OPERATE FOR A PERIOD

CU2361

EXCEEDING THREE DAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.115 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. This is an application to allow a food truck or trailer serving pizza and food upon the property leased by the Applicant.**
- 2. The site is zoned C-1 General Commercial, which permits service uses that are more intensive than what is proposed here, including full-scale restaurants. In addition, there are commercial uses on either side of this site and throughout the immediate area. This site is also across from the Revelation Micro-brewery and this use will be accessory to that microbrewery.**
- 3. The food truck will serve residents of the community, people at the nearby bike trails and patrons of the microbrewery.**
- 4. The use will not adversely affect the neighboring community or roadways.**
- 5. No parties spoke in opposition to this application.**
- 6. This recommendation shall be subject to the following conditions:**
 - a. The use shall be limited to a mobile or temporary food and beverage vendor.**
 - b. The use shall comply with all setbacks and parking requirements.**
 - c. The use shall not be permanently affixed or attached to the property.**
 - d. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.**
 - e. The use shall comply with any requirements of the Sussex County Engineering Department regarding wastewater and grease discharges.**
 - f. The hours of operation shall be from 11:00 a.m. until 9:00 p.m., Monday through Sunday.**
 - g. A final Site Plan showing the location of the food truck shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**Public
Hearing/
CU2450**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BUSINESS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.27 ACRE MORE OR LESS” (properties are lying on the northeast side of

**Public
Hearing/
CU2450
(continued)**

Malloy Street approximately 100 feet southeast of Central Avenue) (911 Address: 37411 & 37417 Malloy Street, Rehoboth Beach) (Tax Map Parcels: 334-13.20-27.00 & 27.01) filed on behalf of GGA Construction.

The Planning & Zoning Commission held a Public Hearing on the application on August 21, 2024. At the meeting of September 11, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 10 recommended conditions as outlined.

The Council found that Mr. Jim Fuqua, represented the applicant, GGA Construction, and spoke on their behalf; that this is a conditional use application for an office building on Lloyd St. in Rehoboth and the adjacent building that fronts on Central Ave. is utilized as an art cooperative building; that the site has a variety of businesses and commercial activities, including the Revelation Craft beer brewing and beer garden, which is a popular stop of many bikers who have gone along the bike trail along their rides; that there is a large wall that separates the lot from the Henlopen Junction; that to the east of the site is the Henlopen Junction and Henlopen Station development; that there are commercial uses along Rehoboth Ave. and then behind the commercial uses is a multifamily residential development; that on their side of the wall a mural has been painted; that when looking at the Zoning Map it's all C1 zoning except for a little tan in the middle of it which is where the two lots are located; that in 1970, this parcel was originally zoned commercial when they did the original zoning map; that in 2000, an application was filed to rezone the lot from C1 to GR; that it appear that there were several mobile homes on these parcels that were combined as one; that one mobile home was to be removed, one was going to remain, a newer one was to be brought in and another existing one was going to be converted into a storage unit; that it is assumed that you couldn't bring a new mobile home into a C1 district, so they had to get it rezoned to GR in order to bring the manufactured home in; that GGA Construction purchased this property in 2022 and the survey showed that there was an existing mobile home on the property which wasn't in good shape, an abandoned trailer on the property and a bunch of abandoned decks which had been attached to a mobile home that had been removed; that the applicant removed the trailers and the other things that were on the site and cleaned it up; that this application was filed in May of 2023; that the C1 District was closed at that time; that it is best to utilize the conditional use route since the applicant has a specific use in mind for an office building; that there are two tax map parcels containing 11,396 sq feet and about 110 feet wide by 100 feet deep; that the rear is about 8 feet wider than the front; that the proposed building will be two stories and have a total floor area of 4,940 sq feet, with 4,200 sq feet being office space and 740 sq feet for storage only; that the building would maintain a 30 foot setback from the front; that the building would have a 5 ft rear setback and along the one side as shown on the site plan; that would be a six foot privacy fence along the rear and north side; that there would be 21 parking spaces, 4 in the front one being ADA compliant: that part of condition D as recommended by the P&Z Commission was to have no parking be allowed in the front yard setback;

**Public Hearing/
CU2450
(continued)**

that they are requesting to delete that language from condition D; that the situation is that there are no other lots located on the dead end street; that the proposed parking is a practical and reasonable use for this site and creates no traffic impact; that a 10X10 trash enclosure would be built on a concrete pad with proper landscaping around all areas; that all lighting would be downward and shielded and have one lighted sign not to exceed 32 sq feet; that no wetlands are present and sewer is provided by Sussex County and water by City of Rehoboth Beach; that DelDOT stated in its SLER that traffic impact would be negligible; that during the PZ Commission meeting on September 11, 2024, they recommended approval of the request and stated in the minutes subject to the conditions as noted; that the conditions are acceptable to the applicant with the exception of condition B being amended; that they are seeking approval of the application.

There were no public comments.

The Public Hearing and public record were closed.

**M 523 24
Amend
Condition D/
CU2450**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to amend Condition D by removing the last sentence that states “No parking shall be allowed in the front yard setback”.

Motion Adopted: 5 Yeas

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

**M 524 24
Adopt
Ordinance
No. 3049/
CU2450**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3049 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BUSINESS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.27 ACRE MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

1. The area surrounding this property is all zoned C-1 General Commercial and this property itself was zoned C-1 until it was rezoned to GR General Residential in 2000. Although it is currently zoned GR, this zoning classification is inconsistent with the surrounding area and is essentially what is considered to be “spot zoning”.
2. Since the C-1 District is now a closed district, the Applicant has chosen to seek a conditional use instead of a completely different commercial zoning classification from the surrounding property.

**M 524 24
Adopt
Ordinance
No. 3049/
CU2450
(continued)**

3. The use as an office building will be consistent with many other uses in the area including a brewpub, storage and warehouse buildings, a community event center and other varied types of uses.
4. The property has frontage on Malloy Street which is a dead-end street. This property is the only property with frontage on Malloy Street so the use will not impact any other properties on the street.
5. The Applicant has stated that this site will be used as an office building. There will not be excessive traffic to or from the site. DelDOT has also stated that the traffic impact will be “negligible”.
6. The property will be served by central water and Sussex County central sewer.
7. There is no evidence in the record that the use will adversely affect area roadways or neighboring properties.
8. The property is located within the Commercial Area according to the Sussex County Comprehensive Plan. Offices like this are appropriate in this Area according to the Plan.
9. No parties appeared in opposition to the application.
10. This recommendation is subject to the following conditions:
 - a. The use shall be as an Office Building with a total square footage that does not exceed 5,000 square feet. No retail sales or outdoor storage shall occur on the site.
 - b. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - c. The applicant shall comply with any DelDOT entrance and roadway improvements requirements.
 - d. Parking areas shall be shown on the Final Site plan and clearly marked on the site itself.
 - e. All dumpsters shall be screened from the view of neighboring properties and roadways.
 - f. All security lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - g. A solid fence shall be constructed along the North and East sides of the property as shown on the Preliminary Site Plan. The details of the fencing and landscaping shall be shown on the Final Site Plan.
 - h. Stormwater management shall be constructed in accordance with all applicable state and county requirements.
 - i. Failure to comply with these conditions may result in the revocation 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**

M 525 24

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at

Adjourn 3:15 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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