

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 27, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 27, 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
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Todd F. Lawson	County Administrator
J. Everett Moore Jr.	County Attorney

Mr. Cole and Mr. Wilson were absent.

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 652 18
Amend
and
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to amend the agenda by deleting “Executive Session – Pending Litigation pursuant to 29 Del. C. §10004(b)” and “Possible Action on Executive Session Items”, and to approve the agenda, as amended.

Motion Adopted: 3 Yeas, 2 Absent.

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

Minutes

The minutes of November 13, 2018 were approved by consent.

**Public
Comments**

Correspondence

**YMCA OF DELAWARE, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant.**

**CLOTHING OUR KIDS, MILLSBORO, DELAWARE.
RE: Letter in appreciation of grant.**

**WOODBIDGE HIGH SCHOOL MARINE CORPS JROTC,
GREENWOOD, DELAWARE.
RE: Letter in appreciation of grant.**

**READ ALOUD DELAWARE, LEWES, DELAWARE.
RE: Letter in appreciation of grant.**

**Public
Hearing
(continued)**

RONALD MCDONALD HOUSE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

THE ARC OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

**WEST SIDE NEW BEGINNINGS, WEST REHOBOTH CHILDREN &
YOUTH PROGRAM, REHOBOTH, DELAWARE.**

RE: Letter in appreciation of grant.

DELAWARE GUIDANCE SERVICES, LEWES, DELAWARE.

RE: Letter in appreciation of grant.

**COMMUNITY RESOURCE CENTER, REHOBOTH BEACH,
DELAWARE.**

RE: Letter in appreciation of grant.

**Public
Comments**

Public Comments

Paul Reiger commented on the vacancy on the Planning and Zoning Commission after Doug Hudson takes office as Sussex County Councilman. Mr. Reiger also commented on Board of Adjustment cases, i.e. size of projects.

Dan Kramer commented on the vacancy on the Planning and Zoning Commission that will occur after Doug Hudson takes office as Sussex County Councilman.

Martin Ross commented on the County's approach to affordable housing and suggested the formation of a working group to identify modifications to an ordinance that would allow for impactful and integrated solutions. Mr. Ross also commented on projected residential growth in the 2018 Comprehensive Plan. Mr. Ross requested that the Council reconsider its decision to remove the Agribusiness overlay areas.

Robert Viscount stated that he represents the concerns of about 65 people and he commented on the following: impact of multiple land use projects in the area, procedural errors and gaps relating to changes in land use, i.e. public notice and access to information, and a land use loop hole relating to assisted living facilities.

**M 653 18
Approve
Consent
Agenda
Items**

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

- 1. Wastewater Agreement No. 1064
Sussex County Project No. 81-04
Middle Creek Preserve – Phase 1
Angola Neck Sanitary Sewer District**

**M 653 18
Approve
Consent
Agenda
Items
(continued)**

- 2. Wastewater Agreement No. 1032-1
Sussex County Project No. 81-04
Lewes Crossing – Phase 8 (Plan Approval and Construction Record)
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**
- 3. Wastewater Agreement No. 990-5
Sussex County Project No. 81-04
Ocean View Beach Club – Phase 3B
Bethany Beach Sanitary Sewer District**
- 4. Wastewater Agreement No. 638-19
Sussex County Project No. 81-04
The Estuary – Phase 2-1 (Construction Record)
Miller Creek Sanitary Sewer District**

Motion Adopted: 3 Yeas, 2 Absent.

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

**Public
Hearing/
Proposed
Bond
Ordinance/
Western
Sussex
Regional
SSD**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$16,634,748 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

This Ordinance provides for the issuance of up to \$16,634,748 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the Western Sussex Regional Sanitary Sewer District Project, consisting of the transfer of sewer flows from Bridgeville and Greenwood to the existing City of Seaford sewer system and wastewater treatment facility, utilizing existing and proposed infrastructure to be owned and maintained by the County to serve what will be known as the Western Sussex Sewer District (the "Project"), with the expectation that up to \$3,200,000 of principal forgiveness will be applied in order to reduce the principal amount of the Bonds outstanding to \$13,434,748 upon Project completion.

There were no public comments.

The Public Hearing and public record were closed.

**M 654 18
Adopt
Ordinance
No. 2617**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2617 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$16,634,748 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WESTERN SUSSEX REGIONAL SANITARY SEWER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 3 Yeas, 2 Absent.

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

**Public
Hearing/
Proposed
Ordinance/
Relating
to the C-4
District**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XID, SECTIONS 115-83.26, 115-83.27, 115-83.31 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”.

Ms. Cornwell reported that during the implementation of the new C-4 zoning district, staff identified inconsistencies/impediments in the Code and that this proposed ordinance addresses those. One of the items to be addressed is the determination of the amount of land for the C-4 zone. The intent of the Code was to allow for multiple parcels that meet or exceed 3 acres in size to be rezoned to C-4. The way the Code reads is that it is a single parcel of land that needs to have a minimum of 3 acres. There was contradiction in a few of the permitted uses. The revision will clarify the permitted uses. Ms. Cornwell reported that staff has had several meetings with developers and engineers regarding the desire to use the C-4 zoning and include mixed use. The Code currently allows a maximum of 20% of the development to be residential. The proposed amendment would allow a maximum of 40% of the development to be residential.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on October 25, 2018 at which time action was deferred. On November 15, 2018, the Commission recommended approval with two recommendations: (1) increase the amount of maximum residential development from 20% to 65% and (2) that mixed use buildings not count towards the overall density calculation.

Public comments were heard.

Ring Lardner of Davis Bowen & Friedel stated that he supports the Planning and Zoning Commission’s recommended changes and he discussed his reasons for his support. Mr. Lardner stated that as proposed, the ordinance removes single family fee simple from being permitted in the C-4 District and he asked Council to consider allowing fee simple subdivisions.

**Public Hearing/
Proposed Ordinance/
Relating to the C-4 District
(continued)**

David Hutt, Attorney, agreed with Mr. Lardner’s comments. He stated that with the current limitations in the Ordinance, master planning does not work and that for this zoning classification, greater flexibility is needed for the split between commercial and residential. Mr. Hutt stated that he supports the recommendation of the Planning and Zoning Commission and recommended against striking single family uses in the C-4 District.

Dan Kramer commented on apartments over-top of stores and he questioned how many could be put on top of a Walmart, if permitted. He stated it should be permitted. He also stated that the Council should review all ordinances.

Rich Borrasso, a member of Sussex Alliance for Responsible Growth, questioned if there is a lack in the need for commercial space and stated that, if residential space is increased, that it be tied to affordable housing.

Jeff Stone raised questions about taking a commercial zone and changing it to residential and stated that mixed-use today is not a store with apartments over-top as that rarely happens now. He stated that the ordinance needs to be clear as to what the use and the density is going to be; that he questions how the density will be calculated; and that he questions if more residential is needed.

Mr. Vincent explained how density would be calculated when residential is located over commercial.

There were no additional public comments and the Public Hearing was closed.

It was noted that Mr. Burton has asked for additional information from staff (examples on the increase in residential from 20% to 65% in mixed use buildings). Mr. Arlett asked for more clarification on the density calculation and percentages.

**M 655 18
Defer
Action on
Proposed Ordinance
Relating to
C-4
Ordinance**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action on the Proposed Ordinance until the (close of business on Monday, December 3rd for staff to provide additional information and thereafter, the record will remain open for one week (close of business on Monday, December 10th) for the public to respond, in writing only, to the information submitted by staff.

Motion Adopted: 3 Yeas, 2 Absent.

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

**2019
Schedule**

Mr. Lawson presented the proposed Sussex County 2019 Schedule for the Council’s consideration.

**M 656 18
Approve
2019
Schedule**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Council approves the 2019 holiday schedule and the 2019 County Council meeting schedule.

HOLIDAY SCHEDULE

New Year’s Day	January 1 (Tuesday)
Martin Luther King, Jr. Day	January 21 (Monday)
Good Friday	April 19 (Friday)
Memorial Day	May 27 (Monday)
Independence Day	July 4 (Thursday)
Labor Day	September 2 (Monday)
Veterans Day	November 11 (Monday)
Thanksgiving	November 28 (Thursday)
	November 29 (Friday)
Christmas	December 24 (Tuesday)
	December 25 (Wednesday)

(The County grants two floating holidays to eligible employees per calendar year in accordance with the Floating Holiday Policy.)

COUNCIL NO MEETING DATES

**JANUARY 1
JANUARY 22
FEBRUARY 12
MARCH 5
APRIL 23
MAY 28
JULY 2
JULY 9
AUGUST 6
AUGUST 27
SEPTEMBER 3
OCTOBER 15
NOVEMBER 26
DECEMBER 3
DECEMBER 24
DECEMBER 31**

Motion Adopted: 3 Yeas, 2 Absent.

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

**Adminis-
trator’s
Report**

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

1. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Monday, December 3rd, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The “Pack the POD” campaign will remain in full swing until the end of December.

2. Mildred King Luncheon

Sussex County offices will close on Friday, December 7th, from 11:00 a.m. to 2:00 p.m. to allow employees to attend the annual Mildred King Luncheon. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 2:00 p.m.

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, The Preserve at Jefferson Creek (Sewer Revision - Added Sewer Laterals) received Substantial Completion effective November 9th.

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

**South
Coastal
Library
Reading
Garden
Project C/O**

Hans Medlarz, County Engineer, presented Change Order No. 2 for Project L19-03, South Coastal Library Reading Garden Alterations. The Change Order will allow for the creation of additional floor space (additional patron user space) and will include lighting improvements. There is no price increase associated with this change order.

**M 657 18
Approve
C/O/
South
Coastal
Library
Project**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract L19-03, South Coastal Library Reading Garden Alterations, be approved with no change in the contract amount.

Motion Adopted: 3 Yeas, 2 Absent.

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

Calculation of Permitted Density/ Proposed Ordinance/ Deferred Mr. Burton referenced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE III (“PROVISIONS APPLICABLE TO ALL DISTRICTS”), ARTICLE IV (“AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”) AND ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”) WITH RESPECT TO THE CALCULATION OF PERMITTED DENSITY”. He noted that due to the fact that two Councilmembers were absent on this date, action would be deferred.

Delaware Coast Line Railroad Jim Hickin, Airport Manager, reported that Delaware Coast Line Railroad’s (DCLR) 30-year lease in the Airport’s Business Park will expire in November 2019. Due to recent changes in their business activities, DCLR has explored other rail-related lines of business that they could take advantage of their unique facility in the Business Park. As a result, DCLR has requested the County negotiate a new lease a year prior to their existing lease’s expiration: initial six-year term beginning December 1, 2018; option to renew the lease for three additional five-year consecutive terms, first year rent to remain as in existing lease, remaining five years of initial term will be \$7,400 (\$5,000 per acre), rent for the five-year options will increase by CPI-U. Mr. Hickin reported that DCLR has also requested approval to sublease a portion of the property to Railroad Construction Company, Inc. and Delmarva Central Railroad. Both companies’ use of the property will be in accordance with the current and proposed leases.

M 658 18 Execute Lease Agreement/ Delaware Coast Line Railroad A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council authorizes the Council President to execute the Lease Agreement with Delaware Coast Line Railroad for portions of Lots 19 and 20 in the Delaware Coastal Business Park, as presented.

Motion Adopted: 3 Yeas, 2 Absent.

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

M 659 18 Enter Into Commercial Lease Agreements/ Delaware Coast Line Railroad A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council consents to Delaware Coast Line Railroad entering into commercial lease agreements with Railroad Construction Company, Inc. and Delmarva Central Railroad for the use of portions of Lots 19 and 20 in the Delaware Coastal Business Park.

Motion Adopted: 3 Yeas, 2 Absent.

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

Lakeside Expansion of the SCUSSD

John Ashman, Director of Utility Planning, presented a request to post notices for the Lakeside Annexation of the Sussex County Unified Sanitary Sewer District (Blades Area). The request was made by Lakeside Mobile Home Community for Parcel 132-2.00-274.00; two other parcels are required to make the project contiguous. A tentative Public Hearing is currently scheduled for January 15, 2019.

M 660 18 Post Notices/ Lakeside Expansion of the SCUSSD

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to authorize the Engineering Department to prepare and post notices for the Lakeside Expansion of the Sussex County Unified Sanitary Sewer District (Blades Area), as presented.

Motion Adopted: 3 Yeas, 2 Absent.

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

PLUS Comments Approval/ 2018 Comprehensive Plan

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Engineer, referenced the November 13th Council meeting and Council's decision to amend language in Chapter 4 – Future Land Use – Affordable Housing, regarding affordable housing and density, to include adequate levels of service to the Developing Areas and Coastal Areas in the language relating to Chapter 4. It was reported that a letter has been received from the Delaware State Housing Authority withdrawing their concern with certification and stating that they have no concern with the updated language.

M 661 18 Approve Amended Language/ PLUS Response Letter

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the County's response letter addressing the State Office of Planning Coordination, September 20, 2018, PLUS Letter regarding the 2018 Comprehensive Plan is approved and that the Director of Planning and Zoning is authorized to transmit the response letter on behalf of Sussex County to the Office of State Planning Coordination and such other State agencies as may be appropriate.

Motion Adopted: 3 Yeas, 2 Absent.

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

Future Land Use Map Change

Ms. Cornwell presented a Future Land Use Map change as previously discussed by Council at the November 13th meeting at which time action was deferred.

In regard to the New Road / Route One area, an amended map was presented for consideration. On the amended map, areas along the

Future Land Use Map Change (continued) northwest side of New Road were removed from the Coastal Area and areas further east on Coastal Highway were removed, and a small area that was a Low Density Area was added to ensure a contiguous area along Route One.

M 662 18 Land Use Map Change Approved/ A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the areas shown on the map presented on this date to the County Council (and attached hereto) be designated as Low Density Areas and Coastal Areas, as depicted on the map.

Motion Adopted: 3 Yeas, 2 Absent.

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

Action Deferred/ Proposed Ordinance Comprehensive Plan Ordinance As previously noted that since two Councilmembers were absent on this date, Council would defer action on the Proposed Ordinance entitled “AN ORDINANCE ADOPTING THE 2018 COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING ORDINANCE NO. 1980, THE 2007 UPDATE OF THE COMPREHENSIVE PLAN, ADOPTED JUNE 24, 2008”.

Grant Requests Grant requests were presented by Kathy Roth, Assistant Finance Director.

Action was deferred on the two grant requests from Beacon Middle School.

M 663 18 Councilmanic Grant A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$1,000.00 (\$500.00 each from Mr. Vincent’s and Mr. Arlett’s Councilmanic Grant Accounts) to the Good Samaritan Aid Organization for the annual Christmas outreach for needy families.

Motion Adopted: 3 Yeas, 2 Absent.

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

M 664 18 Councilmanic Grant A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to the Western Sussex Chamber of Commerce for the Seaford Christmas Parade.

Motion Adopted: 3 Yeas, 2 Absent.

**M 666 18
(continued)**

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

Rules

Mr. Moore read the rules of procedure for Public Hearings.

**Public
Hearing/
CZ 1860,
CU 2147,
CZ 1861**

A combined Public Hearing was held on the following three Proposed Ordinances: “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS” (Change of Zone No. 1860) filed on behalf of Nassau DE Acquisition Co., LLC (Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03) (911 Address: None Available); “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS” (Conditional Use No. 2147) filed on behalf of Nassau DE Acquisition Co., LLC (Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03) (911 Address: None Available); “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.662 ACRES, MORE OR LESS” (Change of Zone No. 1861) filed on behalf of Nassau DE Acquisition Co., LLC (Tax I.D. No. 334-1.00-15.00 (portion of)) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on these applications on October 25, 2018 at which time action was deferred on all three applications. At the conclusion of the Public Hearing, the Commission left the record open for the Developer’s response to the PLUS comments and the record was left open for 15 days thereafter to give the public time to review and comment (in writing). Ms. Cornwell reported that the record was closed on November 15, 2018.

(See the minutes of the Planning and Zoning Commission dated October 25, 2018.)

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

Ms. Cornwell reported that 53 letter of opposition were received at the time of the Planning and Zoning Commission’s Public Hearing and additional letters in opposition have been received since that time.

**Public
Hearing/
CZ 1860,
CU 2147,
CZ 1861
(continued)**

It was noted that the Applicant previously submitted an Exhibit Booklet, which included proposed Findings of Fact and proposed conditions.

The Council found that John Tracey, Attorney, was present on behalf of the equitable owner of the property, Nassau DE Acquisition Co., LLC, with Alan Hill and Tom Shirey of Hilcrest Associates, Inc. and Joe Calabro of Nassau DE Acquisition Co., LLC. Mr. Tracey stated that the property is located adjacent to Route One and Old Mill Road with frontage on both; that this is an application to rezone the 15.162 acre parcel from AR-1 to 12.50 acres of MR and 2.662 acres of C-2 as well as to grant a Conditional Use to allow for multi-family residential units within the MR portions of the site; that five three-story buildings are proposed for a 150 unit apartment development with 75 single-story garages and 100 storage units and 4,700 square feet of commercial space; that the project will consist of 150 units on 12.50 acres which results in a density of 12 units per acre; that an office building / leasing office is proposed in the C-2 area in the front; and that DelDOT did not require a Traffic Impact Study; however, the Applicant/Developer understands that the Area-Wide Study Fee in Lieu does not exempt them from the responsibility to make off-site improvements or from preparing a Traffic Operation Analysis (TOA) if DelDOT identifies a need for a TOA in the plan review process; and that this project is located in Investment Levels 3 and 4 according to the Strategies for State Polices and Spending. Mr. Tracey stated that there will be no adverse impact on neighboring or adjacent properties and that the project will not affect the public's health, safety and welfare. Mr. Tracey also commented on the need for a diversity of housing options close to employment centers and resort areas.

Mr. Tracey presented an overview of the project including a history of the site, the proposed layout of the site, the type of housing proposed, concept plan, amenities, proposed stormwater management, water and sewer availability, traffic report, two access points / entrances, planned and required road improvements and easements, density of the project, setbacks, open space, landscaping, and other commercial and MR zonings in the area. He referenced the project's compliance with the County Code and the 2008 Comprehensive Plan.

Public comments were heard.

Todd Fisher spoke in support of the application. He stated that he owns the two properties surrounded by the proposed project on three sides; that water and sewer will be available; that once DelDOT completes road improvements, traffic should be better and there will be a safer intersection.

Jennifer Cinelli-Miller of DelDOT was in attendance and responded to questions relating to access to the site, the timing of proposed road improvements and CTP funding.

**Public
Hearing/
CZ 1860,
CU 2147,
CZ 1861
(continued)**

Mark Wright, Bill Landon, Vince Brady, Bob Christiansen, Lisa Bartels, Glen Vernon, David Williams, Gerald Cohen, Suzanne Hain, George Dellinger, Rich Borrasso, Ruth Shiflette and Keith Betts spoke in opposition to the applications. They stated that that the parcels should be developed as AR-1; that Old Mill Road is a dead end road with no shoulders; that Old Mill Road functions as a driveway and access should not be granted to the proposed project; that the 150 units will exit the site onto Old Mill Road; that 60 families currently live in the Old Mill community in single family homes; that road improvements planned by DelDOT will take longer than stated; that there is no precedent set for this change of zone; that there are plenty of rental units available; that a Traffic Impact Study needs to be conducted; that flooding problems already exist and the Applicant plans to take out all of the trees which increases flooding concerns; that the other developments in the area are wooded; that it is a very dangerous area (traffic hazards) and there is concern about children, the elderly, and the disabled; that they are proposing inadequate buffers; that all traffic will be directed onto Old Mill Road and the resulting 2,300 trips per day triggers a requirement for a Traffic Impact Study; that the proposed project will cause more traffic problems and they referenced the proposed service roads; that there will be traffic impact on the west side of Route One; that there are nine communities containing 900 homes on Minos Conaway Road; that there are no shoulders on Minos Conaway Road and the road is already undersized; that more children will create a problem with getting them to school; that there are many environmental concerns (well water, water quality, flooding and run-off, destruction of forest, impervious surface, soil contamination, pollution, odors, inadequate buffers and drainage, air quality, noise, light, wildlife, impact on the Great March, removal of tree line buffer, no proposed stormwater management on the east side of the development); that they question the location of the sewer hook-up; that there is concern about bike lanes / turning lanes; that privacy and quality of life will be disrupted; that the proposed density is out of character with the area; that the Council previously denied an application for storage units on this parcel; that precedents have been set (denial of Conditional Use Nos. 1556 and 1998); that the cumulative impact on the area needs to be considered, including projects in the queue; that the explanation of the DelDOT transportation concept plan is vague and the record should remain open for closer examination and understanding; that they ask Council to delay a vote until more studies can be conducted; and that the proposed project is out of character with the area and AR-1 zoning. The opposition referenced Old Mill vicinity crash data, the PLUS letter, the Corridor Capacity Preservation Program, and the letter from DelDOT.

There were no additional public comments and the Public Hearing was closed.

Mr. Burton questioned what DelDOT's plans (i.e. traffic improvements / transition plan) are for the interim for the project area.

**M 667 18
Defer
Action on
CZ 1860,
CU 2147,
CZ 1861**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action on Change of Zone No. 1860, Conditional Use No. 2147, and Change of Zone No. 1861 filed on behalf of Nassau DE Acquisition, Co., LLC and to leave the record open for the recommendation of the Planning and Zoning Commission and for a period of one week, until the close of business on December 4, 2018 for additional information from DelDOT (in writing); thereafter the record will remain open until close of business on Monday, December 10, 2018 for the public and the Applicant to submit comments (in writing) pertaining to the new information submitted by DelDOT.

Motion Adopted: 3 Yeas, 2 Absent.

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

**Public
Hearing/
CZ 1859**

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 AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 60 ACRES, MORE OR LESS” (Change of Zone No. 1859) filed on behalf of Boardwalk Development, LLC, c/o Joseph Reed (Henlopen Meadows) (Tax I.D. No. 234-12.00-3.00 and 6.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on October 25, 2018 at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated October 25, 2108.)

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

It was noted that an Exhibit Book was previously submitted.

The Council found that David Hutt, Attorney, was present with Ken Christenbury of Axiom Engineering, LLC and Joe Reed, Principal of Boardwalk Development, LLC on behalf the application. They stated that this is an application to amend the Comprehensive Zoning Map from a split zoned GR General Residential District and AR-1 Agricultural Residential District to a GR-RPC General Residential District with a Residential Planned Community overlay; that the property is currently owned and farmed by the Dorman family; that the surrounding area has been in General Residential use for over 3 decades; that lands to the north, east and west are zoned GR; that the application represents infill; that the property

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is bordered by roads on all four sides with the exception of some manufactured homes on the north and northeast corner; that the project to be built on the site will be known as Fieldstone at Lewes, a Residential Planned Community; that the plan for the community is for 201 detached single family residential units, a housing type consistent with the character and trend of development in the area; that the change of zone is consistent with the residential density of the immediate area; that the project proposes moderately priced workforce housing to provide for the needs of employees working in the eastern half of Sussex County, the location of many employment centers and opportunities; that the proposed density of the project is 3.35 units per acre, and is less than the density anticipated in the Angola Neck Sanitary Sewer District's design assumptions; that the project is located in Investment Level 3 according to the Strategies for State Policies and Spending; that water will be provided by Tidewater and sewer service will be provided by Sussex County; that there will be no impact on wetlands; that there will be a forested buffer; that a significant amount of open space will be preserved; that DelDOT determined that the project qualifies to fund an area-wide Traffic Impact Study (TIS) in lieu of completing a project specified TIS; that the project will fit into the landscape of the Angola Neck Area; that there is an extremely limited inventory of workforce housing and that the project will be marketed for this target people with the help of the DSHA; and that the project is not a high density project nor is it a low income project. They referenced the County's Zoning Ordinance and Subdivision Ordinance, the Comprehensive Plan, and DelDOT's technical comments. They gave an overview of communities and zonings in the surrounding area.

Mr. Christenbury reported on the design of the stormwater management plan for this project. He discussed in detail a past flood/drainage problem in the area that was presented by the opposition during the Planning and Zoning Commission's public hearing and he addressed the complaint. It was noted that this drainage problem existed prior to the Applicant purchasing this property and prior to the Applicant purchasing the nearby Bay Point property.

Mr. Hutt referenced the petitions submitted by the Opposition and noted discrepancies in those petitions.

Public comments were heard.

Amy Walls spoke in support of the application and discussed the need for affordable housing and workforce housing.

Ed Chamberlain, Jim Rodgers, Laura Marrolli, Kelli Krueger, Jerry LaForgia, Ray Martin, A.H. Coven, and Jeri Hall spoke in opposition to the application. They stated that permitting this application and such an increase in building at this location is both unwarranted, damaging, and potentially dangerous to the present and future residents of the area; that

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with 201 homes on 60 acres, this project would be the highest-density new housing on Angola Neck; that the project would overly contribute to the congestion and traffic on Angola Neck roads and Route 24; that the project would not provide a good cost option for moderate income workers; that there is no public transportation in the area; that area congestion would mean longer commute times for workers; that its “moderately-priced” homes will cost more than hundreds of other Lewes homes currently for sale; that the peninsula is accessible by only two single lane roads; that evacuation of the peninsula could be compromised/dangerous; that the project is located in the Investment Level 3 area according to the Strategies for State Polices and Spending where infrastructure is not a priority; that the project will create stress on an already overstressed police and fire resources; that only 30 homes of the 201 homes will be set aside for workforce housing; that the number of car trips generated by this project will increase traffic dramatically; that this project is being proposed in an area that’s already in a building boom; that the application will result in greater runoff and contribute to pollution of the waterways, along with increased toxicity of drinking water and natural habitat destruction; that the school system is already over-crowded; that they question the traffic counts; that the cumulative impact of approved projects in the area needs to be considered; and that the project is not in compliance with the Comprehensive Plan.

Ms. Krueger presented information on the history of the water run-off problem and personal property loss experienced due to prior flooding/drainage problems in this area and the lack of help/cooperation she received from county and state agencies. Ms. Krueger asked the Council to leave the record open for more information regarding the project’s impact on the ditch and how much run-off and storm water it can handle.

There were no additional public comments and the Public Hearing was closed.

**M 668 18
Defer
Action on
CZ 1859**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action until December 11, 2018 (the record remains open for a recommendation from the Planning and Zoning Commission only).

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 669 18
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 7:50 p.m.

Motion Adopted: 3 Yeas, 2 Absent.

**M 669 18
(continued)**

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