

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 10, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 10, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

**Call to
Order**

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

Mr. Vincent called the meeting to order.

**M 585 19
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Minutes

The amended minutes of October 8, 2019 were approved by consent.

The minutes of November 19, 2019 were approved by consent.

**Corre-
spondence**

Mr. Moore read correspondence received from the following: YMCA of Delaware, Optimist Club of Sussex County, Milford Housing Development Corporation, Literacy Delaware, Cape Henlopen Senior Center, Junior Achievement of Delaware, iTN Southern Delaware, Girl Scouts of the Chesapeake Bay, Kent-Sussex Industries, Community Resource Center, Ronald McDonald House, Delaware Hospice, and Sussex County Health Coalition.

**Public
Comments**

A public comment period was held and the following spoke: Dan Kramer and Keith Steck.

**Library
Advisory
Board**

Mr. Lawson reported that the term of Diana Young (District 5) on the Library Advisory Board expired in June 2019.

**M 586 19
Approve
Reappoint-
ment/
Library
Advisory
Board**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, that the Sussex County Council approves the reappointment of Diana Young to the Library Advisory Board effective immediately until such time as the term expires on June 30, 2022.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Adminis-
trator's
Report**

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

1. Caroling on The Circle

The Sussex County Council would like to thank the community for participating in the 36th annual Caroling on The Circle on Monday, December 9th. We had a very successful night with hundreds of carolers and thus far have collected more than 26,000 canned goods and nonperishable food items for our less fortunate neighbors.

We remind everyone that the County is continuing to collect items until the end of the year and will continue to distribute these goods to our local food pantries. We want to thank all our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a success!

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for October 2019 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 191 troopers assigned to Sussex County for the month of October.

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

The Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee will meet on Monday, December 16th, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the agenda is attached.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Zwaanendael Farm –

Administrator's Report (continued)

Lot 1 – Commercial Building Entrance Road, effective November 14th; Marsh Farm Estates – Phase 3, effective November 18th; Baylis Estates (Plan Review) – Phase 1 and 1A, Revised, effective November 19th; and Millville By The Sea – Village 8 & Beebe Medical Center, effective November 26th.

5. Distinguished Budget Presentation Award

I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Distinguished Budget Presentation Award for the Fiscal Year 2019 Budget Report. This is the second year that the County has received this prestigious award acknowledging its budget report. In order to receive the award, the budget document must serve an entity as a policy document, financial plan, operations guide, and communication device.

Congratulations to Gina Jennings, Finance Director/Chief Operating Officer, and Kathy Roth, Deputy Finance Director, for their efforts in achieving this award.

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

Delaware Coastal Business Park Leases

William Pfaff, Economic Development Director, presented the following Delaware Coastal Business Park leases: Jaykal, LED Solutions, Inc. (Lot 3 in the new section of the Delaware Coastal Business Park) and Eastern Shore Natural Gas Company, Inc. (Lot 28 in the old section of the Delaware Coastal Business Park).

M 587 19 Approve Lease Agreement/ Jaykal LED

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the Lease Agreement with Jaykal LED Solutions, Inc. in the Delaware Coastal Business Park (Lot 3), as presented.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

M 588 19 Approve Lease Agreement/ Eastern Shore Natural Gas

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the Lease Agreement with Eastern Shore Natural Gas, Inc. in the Delaware Coastal Business Park (Lot 28), as presented.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

**MOU/
State of
Delaware/
Technical
Assistance**

Robbie Murray, Deputy Director of EMS Administration, presented a request to renew the Memorandum of Understanding (MOU) with the State of Delaware, Division of Public Health, for Technical Assistance to First Responder and Community Groups. Mr. Murray stated that this MOU allows EMS to utilize grant funding through the State of Delaware for Sussex County EMS hours associated with training for Narcan and other opioid related meetings.

**M 589 19
Approve
MOU/
Technical
Assistance**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council, through the EMS Department, enter into the Technical Assistance to First Responder and Community Groups Memorandum of Understanding (MOU) with the State of Delaware Division of Public Health, and provide support as outlined in the MOU.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**CU 2186/
Mountaire
Farms of
Delaware/
Report**

Janelle Cornwell, Director of Planning and Zoning, reported that, at the meeting of November 5, 2019, following a Public Hearing, the County Council left the record open on Conditional Use No. 2186 filed on behalf of Mountaire Farms of Delaware, Inc. for Council to ask questions of staff and agencies. Council gave agencies until the close of business on December 9, 2019 to provide responses to the questions. Ms. Cornwell reported that questions were submitted to DNREC and the agency has provided responses to those questions. Ms. Cornwell distributed DNREC's responses to Council members and she announced that the record will now be open for five (5) days for the public to provide written comments regarding those responses from DNREC (only). The record will close on December 16, 2019 at 4:30 p.m. On December 17, 2019, this matter will be on the Council's agenda for the purpose of reporting on public comments and for the purpose of closing the record.

**CU 2176/
KH
Sussex
LLC/
Report**

Janelle Cornwell, Director of Planning and Zoning, reported that, at the meeting of September 17, 2019, following a Public Hearing, the County Council left the record open on Conditional Use No. 2176 filed on behalf of KH Sussex, LLC for Council to ask questions of staff and agencies. Ms. Cornwell reported that responses from the agencies have been received and the responses have been provided to Council members as part of the Council packet. Ms. Cornwell announced that the record will now be open for five (5) days for the public to provide written comments regarding those responses from agencies (only). The record will close on December 16, 2019 at 4:30 p.m.

**Old
Business/
CU 2194**

Under Old Business, the Council discussed Conditional Use No. 2194 filed on behalf of Imagination – Renovation, LLC. The Planning and Zoning Commission held a Public Hearing on this application on October 17, 2019

**Old
Business/
CU 2194
(continued)**

at which time action was deferred; on November 21, 2019, the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on November 19, 2019 at which time action was deferred pending a recommendation from the Planning and Zoning Commission.

**M 590 19
Adopt
Ordinance
No. 2691/
CU 2194**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2691 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FURNITURE MAKING AND REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 2194) filed on behalf of Imagination – Renovation, LLC, with the following conditions:

- A. The use shall be limited to the two buildings of approximately 4,100 square feet and 400 square feet and designated on the Boundary Survey Plan as “Buildings to be used in furniture making business.”
- B. One unlit sign, not to exceed 32 square feet per side, shall be permitted.
- C. There shall be no outside storage of materials or supplies.
- D. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
- E. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
- F. The hours of operation shall be from 7:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturdays.
- G. All furniture making (including staining) and repairs shall be performed inside the existing buildings located on the property. No lumber and equipment shall be stored outside.
- H. The site shall be subject to all DelDOT entrance and roadway requirements.
- I. Handling and disposal of all hazardous waste from the furniture making and repair shop shall comply with all local, state, and federal laws, rules and regulations.
- J. The failure to abide by these conditions shall result in the termination of the conditional use approval.
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the areas set aside for parking.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Old
Business/
CZ 1893**

Under Old Business, the Council considered Change of Zone No. 1893 filed on behalf of Lisa Horsey. The Planning and Zoning Commission held a Public Hearing on this application on October 17, 2019 at which time action was deferred; on November 21, 2019, the Commission recommended approval.

The County Council held a Public Hearing on this application on November 19, 2019 at which time action was deferred pending a recommendation from the Planning and Zoning Commission.

**M 591 19
Adopt
Ordinance
No. 2692/
CZ 1893**

A Motion was made by Mr. Burton, seconded by Mr. Hudson to Adopt Ordinance No. 2692 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.474 ACRE, MORE OR LESS” (Change of Zone No. 1893) filed on behalf of Lisa Horsey.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Old
Business/
CZ 1894**

Under Old Business, the Council considered Change of Zone No. 1894 filed on behalf of Howard Pepper, Jr.. The Planning and Zoning Commission held a Public Hearing on this application on October 17, 2019 at which time action was deferred. On November 21, 2019, the Commission recommended approval.

The County Council held a Public Hearing on this application on November 19, 2019 at which time action was deferred pending a recommendation from the Planning and Zoning Commission.

**M 592 19
Adopt
Ordinance
No. 2693/
CZ 1894**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2693 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.368 ACRES, MORE OR LESS” (Change of Zone No. 1894) filed on behalf of Howard Pepper.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Delaware Coastal Airport Leases/ Lots A & B

Hans Medlarz, County Engineer, and Eric Littleton, Airport Manager, presented a redevelopment project for the Delaware Coastal Airport that would replace two (2) aging hangars totaling 5,000 square feet of existing space with at least 20,000 square feet of new space, capable of accommodating large corporate jet aircraft. Since the area in question can accommodate larger hangars, continuation of the existing leases is not representative of the best use of aeronautical property. The leases will end January 31 and February 18, 2020 respectively. The lease for Lot A has two (2) one-year options while the lease for Lot B has one (1) two-year option. Both leases are below market rate and in addition, Lot B's lease is for a partial area only further reducing market rate. Mr. Medlarz reported that the Engineering Department has sent the required 60-day notice of intent to not exercise either optional extensions coupled with a transition offer for a month to month informal arrangement to aid the tenants' relocation. Mr. Medlarz requested Council's affirmation of the cancellation and Council's approval to release a Request for Proposals (RFP) for the following land lease options upon the land encompassing Lots A and B: 1) Proposal for large single hangar development for the purpose of constructing a 20,000 to 30,000 square foot hangar on Lots A and B. 2) Proposals for mid-size hangar development for the purpose of constructing a 10,000 to 15,000 square foot hangar on either lot A or Lot B, or both lots. In addition, the Engineering Department will poll the local aviation community for interest in partial hangar space leases at market rate in a new hangar to be constructed by the County. This option only to be pursued if no suitable offer is received under the request for ground lease proposals. In that same survey, the Department will affirm interest for construction of a second T-Hangar identical to the project completed two (2) years ago.

M 593 19 Cancel Leases and Issue RFP for New Hangar(s)/ Delaware Coastal Airport

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the cancellation of the leases for Lots A and B at the Delaware Coastal Airport and the advertisement of a Request for Proposals (RFP) to construct a new hangar or hangars on the property.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Use of Existing Infrastructure Agreement/ Royal Farms (Dagsboro)

John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Two Farms, Inc. for the Royal Farms Dagsboro project in the Dagsboro/Frankford Area. Under the proposed arrangement, the Royal Farms Dagsboro project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Two Farms, Inc. will contribute \$8,025.00 for the financial catch-up contribution of the existing infrastructure to serve 6.18

(continued) **additional Equivalent Dwelling Units.**

M 594 19 A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Two Farms, Inc. for Capacity Allocation in the Regional Transmission System, as presented.

Approve
Use of
Existing
Infra-
structure
Agreement/
Royal

Farms
(Dagsboro)

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Use of
Existing
Infra-
structure/
Stingray
Harbor

John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement between Sussex County and Double DP. LP for the Stingray Harbor project in the Ocean View Area. Under the proposed arrangement, the Stingray Harbor project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Double DP, LP will contribute \$20,127.00 for the financial catch-up contribution of the existing infrastructure to serve 36.00 additional Equivalent Dwelling Units.

M 595 19 A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Double DP, LP for Capacity Allocation in the Regional Transmission System, as presented.

Approve
Use of
Existing
Infra-
structure
Agreement/
Stingray

Harbor

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Grant
Requests

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

M 596 19 A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$800.00 from Mr. Rieley's Councilmanic Grant Account to the International Association of Lions Clubs for Fenwick Island Lions Club for the Lions' Selbyville Halloween Parade.

Council-
manic
Grant

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

**M 597 19
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$2,500.00 (\$1,000.00 from Mr. Rieley's Councilmanic Grant Account and \$500.00 each from Mr. Burton's, Mr. Hudson's and Mr. Vincent's Councilmanic Grant Accounts) to the Delaware Botanic Gardens for the construction of ADA accessible and environmentally sustainable restrooms.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 598 19
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$1,000.00 from Mr. Hudson's Councilmanic Grant Account to the Rehoboth Beach Historical Society for construction of an historical exhibit at the museum.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 599 19
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$500.00 from Mr. Rieley's Councilmanic Grant Account to the Town of Delmar for the tree lighting ceremony.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 600 19
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$500.00 from Mr. Hudson's Councilmanic Grant Account to the Diocesan Council for Camp Arrowhead's office septic connection.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 601 19
County-
wide
Youth
Grants**

A Motion was made by Mr. Vincent, seconded by Mr. Burton, to give \$500.00 from Countywide Youth Grants to the Sussex County Music Educators' Association for Sussex County Junior and Senior Honor Bands.

Motion Adopted: 5 Yeas.

(continued) **Vote by Roll Call:** Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Introduction of Proposed Zoning Ordinances Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (14 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS” (Conditional Use No. 2209) filed on behalf of Matthew Hete (Tax I.D. No. 334-6.00-686.00) (911 Address: 34360 Postal Lane, Lewes)

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A MICROBREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 2210) filed on behalf of Dewey Beer Company (Tax I.D. No. 235-30.00-21.00) (911 Address: 18499 Harbeson Road, Harbeson).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS” (Change of Zone No. 1907) filed on behalf of Matthew Hete (Tax I.D. No. 334-6.00-686.00) (911 Address: 34360 Postal Lane, Lewes).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 37.08 ACRES, MORE OR LESS” (Change of Zone No. 1908) filed on behalf of W & B Hudson Family LTD. (Tax I.D. No. 235-30.00-62.00, 64.00, 66.00, 67.00, 70.00, and 72.00) (911 Address: Not Available).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT AND GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A

(continued) CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.22 ACRES, MORE OR LESS” (Change of Zone No. 1909) filed on behalf of Bay Developers, LLC (Twin Cedars, LLC) (Tax I.D. No. 533-11.00-42.00) (911 Address: Not Available).

The Proposed Ordinances will be advertised for Public Hearing.

M 602 19 At 10:40 a.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to recess and go into Executive Session for the purpose of discussing matters relating to pending litigation, land acquisition and personnel.
Go Into Executive Session

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Executive Session At 10:45 a.m., an Executive Session of the Sussex County Council was held for the purpose of discussing matters relating to pending litigation, land acquisition and personnel. The Executive Session concluded at 12:02 p.m.

M 603 19 At 12:07 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to come out of Executive Session and reconvene the Regular Session.
Reconvene Regular Session

Motion Adopted: 3 Yeas, 2 Absent.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Absent; Mr. Burton, Absent; Mr. Vincent, Yea

E/S Action There was no action on Executive Session items.

M 604 19 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess until 1:30 p.m.
Recess

Motion Adopted: 3 Yeas, 2 Absent.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Absent; Mr. Burton, Absent; Mr. Vincent, Yea

M 605 19 At 1:30 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson, to reconvene.
Recess

Motion Adopted: 4 Yeas, 1 Absent.

**M 605 19
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Absent;
Mr. Vincent, Yea**

Mr. Vincent announced that Mr. Burton was not attendance but that he would be listening to the recording of the Public Hearing.

Rules

Mr. Moore read the rules of procedure for zoning hearings.

**Public
Hearing/
CZ 1895
CU 2915**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (Change of Zone No. 1895) filed on behalf of Gulfstream Development, LLC (Kent Apartments) and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (45 APARTMENT UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (Conditional Use No. 2195) filed on behalf of Gulfstream Development, LLC (Kent Apartments) (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available).

It was noted that the two applications would be combined into one Public Hearing; however, the Council will ultimately vote on each application separately.

The Planning and Zoning Commission held a Public Hearing on the two applications on October 24, 2019 at which time action was deferred. On November 14, 2019, the Commission recommended approval of the Change of Zone and recommended approval of the Conditional Use, with conditions.

(See the minutes of the Planning and Zoning Commission dated October 24 and November 14, 2019.)

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

Ms. Cornwell reported that approximately 1,200 letters of opposition were received and one (1) letter of support was received.

The Council found that David Hutt, Attorney, was present representing Gulfstream Development, LLC (Applicant and Owner of the property). Also present representing the Applicant was Jeff Clark of Land Tech and Bob Harris, Principal of Gulfstream. They discussed the proposed use of the property as multi-family units/apartments; the site plan; the layout of

**Public
Hearing/
CZ 1895
CU 2915
(continued)**

the site and its similarity to the nearby project, Providence; topography; buffers; perimeter access requirements; perimeter buffer; landscaping; offsite road improvements that DelDOT may require; amenities; zoning classifications of adjacent properties; sewer and water service availability; parking; entrance plan; stormwater management and the use of pervious pavements; the location of the site in a defined DSHA (Delaware State Housing Authority) area of opportunity; area zonings; commercial uses and residential projects; PLUS response from the Office of State Planning; and the application's compliance with the Zoning Code and the Comprehensive Plan.

They stated that the request for a change of zone is for the majority of the property; that a small portion of the property is already zoned GR; that the application is for multi-family units, including 3 buildings containing a total of 45 apartments, 15 apartments in each of the three buildings; that a mixture of 2 and 3 bedroom apartments are planned; that 40 percent of the units will be 3-bedroom units; that the project will provide another housing option in eastern Sussex County; that no Traffic Impact Study was required by DelDOT; that the Delaware State Housing Authority supports the proposed project; that the project site is located in an Investment Level 2 Area according to the Strategies for State Policies and Spending; that adjacent developments include the Providence project and Shady Dell Park; that other areas adjacent to the project including a seasonal produce stand; that there would be negligible/minor traffic impact; that the proposed project is consistent with adjoining land uses and zonings; that road improvements would be provided in accordance with DelDOT's requirements; that land use is not a popularity contest; that this is an appropriate area for GR zoning and for the 45 apartment units; that the application is not for low income housing and that it is for a housing option for entry level works; that the area is a residential area consisting of both single family homes and multi-family structures; that the project is in close proximity to the Town of Ocean View; that there is adequate public facilities; that there are many employment opportunities in the immediate vicinity; that the generalized concerns in the form letter of the opposition are not consistent with the recently adopted Comprehensive Plan (and previous Plans); that Gulfstream's goal is to provide a housing option that is more affordable than buying a home or renting a home; and that they are not going to promote 6 month rentals and that they prefer 12 or 24 month leases.

Mr. Hutt stated that the Applicant acknowledges the conditions recommended by the Planning and Zoning Commission and will comply with them.

Public comments were heard.

There were no public comments in support of the application.

**Public
Hearing/
CZ 1895
CU 2915
(continued)**

The following people spoke in opposition to the application: Diana Emlet, David Muller, Edward Brzostek, Dale Weese, Jr., John Zarek, Caryn Conlon, Frank Ziemba, Lori Fry, Pat Emlet, Tom Salonick, Tom Douglas, and Alice Giberna. They referenced the large number of letters received in opposition to the application and stated that the signers of the “form” letter are informed citizens. They stated that they are concerned with having renters in the area when the area is predominantly home owners; that larger buffers would be needed; that the 10 foot buffer is minimal; that fencing should be required if the application is approved; that a lot of mature trees would be removed; that there is concern about 6-month rentals and transient renters; that the occupants would not be invested in the community; that the area is largely a retirement area; that some rentals (houses) do exist in the area; that there is concern about the permeable pavement on soils that are poorly drained; that they question the impact on the school system; that residents do not support capital improvement referendums thereby not supporting growth in the schools; that home values will be negatively impacted; that apartments are not in character with the area; that traffic congestion is already a problem; that there is no Town Center to Ocean View; that there is no public transportation to the area; that the proposal is not consistent with the Comprehensive Plan; that there would be significant traffic and safety issues; that they question when the last traffic counts and traffic study was conducted in the area; that there is concern about the lack of stormwater management; that they question what the buildings will look like; that they are concerned with increased crime in the area as a result of this proposed project; that a six-month lease would make this a seasonal rental; that the roads in the area have not been improved to handle increased traffic or the safety of bicyclists and pedestrians; and that approval of this application would set a precedent.

The Public Hearing and public record were closed.

**M 606 19
Defer
Action on
CZ 1895
CU 2915**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to defer action on Change of Zone No. 1895 and Conditional Use No. 2195 filed on behalf of Gulfstream Development, LLC (Kent Apartments) for one week.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Absent;
Mr. Vincent, Yea**

**M 607 19
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to adjourn at 3:38 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, 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.}