

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 15, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 15, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Councilman Sam Wilson was absent.

Call to Order

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

Mr. Vincent called the meeting to order.

M 618 15 Approve Agenda

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to approve the Agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of December 8, 2015 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

**SUSSEX PREGNANCY CARE CENTER, GEORGETOWN,
DELAWARE.**

RE: Letter in appreciation of grant.

**RONALD MCDONALD HOUSE OF DELAWARE, WILMINGTON,
DELAWARE.**

RE: Letter in appreciation of grant.

DELAWARE HOSPICE, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

READ ALOUD DELAWARE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

**Corre-
spondence
(continued)**

EASTER SEALS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

BETHEL HELPING HANDS FOOD BANK, FRANKFORD, DELAWARE.

RE: Letter in appreciation of grant.

CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant.

PEOPLE'S PLACE, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

DELAWARE SPCA, NEWARK, DELAWARE.

RE: Letter in appreciation of grant.

**Public
Comments**

Public Comments

Paul Reiger made recommendations for the Council for 2016.

Dan Kramer commented on Council meeting times and the \$750.00 bonus given to employees.

The Council recognized the Cape Henlopen High School Field Hockey Team upon winning the Delaware Interscholastic Athletic Association title as State Champions for the 2015 season. A Proclamation entitled "A PROCLAMATION TO HONOR THE CAPE HENLOPEN HIGH SCHOOL FIELD HOCKEY TEAM UPON WINNING THE 2015 DIAA CHAMPIONSHIP" was presented to members of the team who were in attendance.

**Delaware
Coastal
Airport
Sign
Project
Update**

Mr. Lawson updated the Council on the Delaware Coastal Airport sign project which is a result of the name change that occurred this year. Signs at the airport facility have been changed; the next step is additional airport signage at the corner of Airport Road and Route 9. The sign at this location will be on lands owned by Sussex Academy; work on this sign is scheduled for completion in Spring 2016.

**Adminis-
trator's
Report**

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

1. Sussex County Emergency Operations Center Call Statistics – November 2015

Attached please find the call statistics for the Fire and Ambulance Callboard for November 2015. There were 12,973 total calls handled for the month of November. Of those 9-1-1 calls in November, 77 percent were made from wireless phones.

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

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Hopkins-Pettyjohn Subdivision (aka Red Mill Pond North) – Phase 4 received Substantial Completion effective December 11th.

3. Christmas and New Year's Holidays

Please note, County offices will be closed on December 24th and 25th to celebrate the Christmas holiday, and January 1st for the New Year's holiday. In addition, the Sussex County Council will not meet on December 22nd or December 29th. The next regularly scheduled Council meeting will be held on Tuesday, January 5th, at 10:00 a.m.

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

**Clean
Water
and
Flood
Abatement
Task
Force
Update**

Mrs. Jennings updated the Council on the Clean Water and Flood Abatement Task Force, which met on November 19th and is scheduled to meet again on December 17th. At the November 19th meeting, the Task Force discussed the draft House Bill known as the "Clean Water for Delaware Act". At the next meeting, the Task Force will review the funding needs to meet the State's demands for clean water. The Act states it is in the public's interest to establish a Clean Water Trust Fund to coordinate the available resources for State drinking water, wastewater, stormwater, non-point source pollution reduction, toxics removal, and ecological restoration. The calculation of the Clean Water Fee for Sussex County is \$0.2071 per \$100 of assessed value, from a minimum of \$45 per year to a maximum of \$85 per year. An average single family home in Sussex County would be charged the \$45 minimum; 65 percent of the parcels in Sussex County would be charged the minimum. The fee will generate over \$8 million for the Clean Water Trust Fund.

Council members raised questions regarding the Task Force members and the fee proposed. Hans Medlarz, County Engineer, was in attendance to assist in responding to questions raised by the Council.

**Public
Hearing/
Proposed
Kings
Highway
De-
Annexation**

A Public Hearing was held on the Proposed Kings Highway De-Annexation from the West Rehoboth Sanitary Sewer District.

Buddy Lynch, GIS Specialist, presented the proposal for the Kings Highway de-annexation of the West Rehoboth Sanitary Sewer District to exclude three parcels that are currently in the District but not served. Mr. Lynch noted that the County has no immediate schedule to serve the parcels. The County was contacted by an Attorney representing the owner of one of the parcels inquiring about sewer service from the County and was informed that there are no immediate plans to serve the area; the Attorney then asked about connecting to the Lewes Board of Public Works. The County contacted Lewes Board of Public Works and they acknowledged

**Public
Hearing/
Proposed
Kings
Highway
De-
Annexation
(continued)**

that they can serve the parcels. A letter requesting de-annexation was sent to the County. All three property owners were notified by the County. Mr. Lynch reported that, to date, there has been one call in support of the proposal from the owner of Parcel No. 335-8.00-39.00, Mr. Hume, the Applicant. No other correspondence has been received, either for or against the de-annexation.

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

**M 619 15
Adopt
R 018 15**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 018 15 entitled "A RESOLUTION TO AMEND THE BOUNDARY OF THE WEST REHOBOTH SANITARY SEWER DISTRICT (WRSSD) TO EXCLUDE THOSE CERTAIN LOTS, MORE SPECIFICALLY TAX ID 335.8.00-38.00, 335-8.00-39.00 & 335-8.00-40.00, PIECES OR PARCELS OF LAND SITUATED ALONG THE EAST SIDE OF COUNTY ROAD 268 (KINGS HIGHWAY) AND BEING IN LEWES REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
Pine
Country
Condo,
Unit 1
Annexation**

A Public Hearing was held to consider annexing an area of land into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (Pine Country Condominium, Unit 1 Area Annexation).

Rob Davis, Senior Planner, presented the proposal for the annexation of an area of land into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The proposed annexation area is south of Warrington Road and west of Old Landing Road and is part of Parcel 119 on Tax Map 334-12.00. The area includes Unit 1 of the Pine Country Condo and consists of 1.1 acres more or less. Other lands of the parcel to the south were previously annexed into the sewer district on September 23, 2014 as part of the Redden Ridge area annexation. The parcel has been served with sewer and a connection point has been provided for Unit 1. The current owner has provided payment of the application fee and submitted a written request for the area to be annexed. Mr. Davis noted that the area adjoins an existing sanitary sewer district.

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

**M 620 15
Adopt
R 019 15**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 019 15 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRSSD) TO INCLUDE THE NORTHERLY PART OF A PARCEL OF LAND LOCATED ALONG COUNTY ROAD CR 275 (WARRINGTON ROAD)

M 620 15 **WEST OF THE INTERSECTION OF CR 274 (OLD LANDING ROAD)**
Adopt **AND COUNTY ROAD CR 275 (WARRINGTON ROAD) AND**
R 019 15 **SOUTHWEST OF THE CITY OF REHOBOTH BEACH, BEING IN**
(continued) **LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE”.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Fair **Brandy Nauman, Housing Coordinator and Fair Housing Compliance**
Housing **Officer, presented the semi-annual update on the progress of the County’s**
Update **settlement requirements for the U.S. Department of Justice (DOJ) and U.S.**
 Department of Housing & Urban Development (HUD) and the progress the
 County has made.

U.S. Department of Justice Consent Decree

- **An Affordable and Fair Housing Marketing Plan was prepared; however the County is still awaiting official approval from the DOJ. Nevertheless, the County continues to implement items as if it was approved. The County hosted its second Homebuyer Fair in September 2015 and has prepared and printed an outreach flyer for distribution to all municipalities, all libraries, 20 major employers, 13 advocacy organizations, and 14 low income communities throughout the County.**
- **There have been no housing discrimination complaints in the last six months.**
- **The County will be submitting its sixth semi-annual compliance report by December 19, 2015 to HUD and the DOJ.**
- **The County holds Fair Housing Training annually; a session was held on July 23, 2015. All new employees affiliated with land use or housing are trained when hired.**
- **The County has created an affordable and fair housing webpage, which was launched in 2013. Compliance reports, and any public hearings and other meetings and events, are posted on the site. The site is updated regularly to provide any news on affordable or fair housing.**

U.S. Department of Housing & Urban Development Voluntary Compliance Agreement (established 2012)

- **HUD has given the County three responses on its activities through the VCA.**

**Fair
Housing
Update
(continued)**

- The County met with HUD in July and items were clarified.
- The County had to do an Analysis of Impediments Evaluation and a Proposed Priority Fair Housing Plan (an analysis of the three different analysis of impediments from 1998, 2003 and 2011). HUD formalized their suggestions and comments to the County's existing plan that were voiced in the July meeting. Thereafter, the County's plan was updated and resubmitted to HUD in October for their review. To date, the County is still waiting for a response.
- At the July meeting, HUD requested a copy of the County's Limited English Proficiency Plan. This was submitted in September.
- The County was required to perform an internal evaluation of 14 different rural communities throughout the County (the Impacted Communities Study). The County is well underway and under contract with a firm called GCR (June 30, 2015 contract date). A comprehensive report is expected in the spring of 2016.

**Public
Hearing/
Proposed
Ordinance/
Extension
of Time for
Approvals**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST".

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on December 10, 2015. On that date, the Commission recommended approval of the Proposed Ordinance.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 10, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing and recommendation.

Public comments were heard.

Dan Kramer commented on Council's allowance of extensions in the past (on two separate occasions) and stated that developers/applicants should have to go through the entire process again.

James Lee commented on injustices for renters in the County.

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

In response to questions raised by the Council members, Mr. Lank stated that the Ordinance specifies that a written request is required in order to receive consideration for an extension and that the Ordinance establishes

**Public
Hearing
(continued)**

criteria for that written request. Mr. Moore clarified that an extension, if approved, would be for a period of six months; that the letter of request must be received by the end of calendar year 2015; that they have to include a schedule for a plan of the project describing the steps that have been taken thus far and how they anticipate completion within the six month period of time; and that they are to include an explanation as to why they do not have all necessary agency approvals and if there are conditions beyond their control. It was noted that the six month period would start on January 1, 2016.

**M 621 15
Adopt
Ordinance
No. 2428**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2428 entitled "AN ORDINANCE TO AMEND CHAPTER 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW APPLICANTS TO SEEK AN EXTENSION OF TIME FOR APPROVALS FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS UPON WRITTEN REQUEST".

Motion Adopted: 4 Yeas, 1 Absent.

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

**Pump
Station 210
Force
Main to
IBRWF/
Bid Results**

Joe Wright, Assistant County Engineer, presented the bid results for Pump Station #210 Force Main to Inland Bays Regional Wastewater Facility: Indian Mission and Beaver Dam Roads (Contract 15-08A). Three bids were received. The apparent low bidder was Allan Myers of Fallston, Maryland in the amount of \$3,977,377.00 for the project's base bid. The Engineer's estimate was \$6,009,750.00. Mr. Wright noted that an Alternate Bid item was provided; however, the Engineering Department is not recommending including that item in the award at this time and that they would like to consider adding the alternate work to the contract at a later date; this would be brought back to Council for consideration.

Mr. Wright reported that the Engineering Department recommends awarding the bid to the low bidder, Allan Myers, contingent on acknowledging and documenting prices bid for three items (A-2, A-4 and B-1).

Mr. Wright noted that this project was initially rejected and rebid.

**M 622 15
Bid
Award/
Pump
Station 210
Force Main
to IBRWF**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Base Bid for Contract 15-08A, PS 210 Force Main to IBRWF; Indian Mission and Beaver Dam Roads be awarded to Allan Myers of Fallston, Maryland, in an amount of \$3,977,377.00, contingent upon the acknowledgement and concurrence of bid items A-4, A-2, and B-1.

**M 622 15
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Saddle
Ridge
Oversizing
Infra-
structure
Agreement**

John Ashman, Director of Utility Planning, presented a Proposed Saddle Ridge Oversizing Infrastructure Agreement between Sussex County and Seaside Communities, RDC, LLC for the installation of sub-regional infrastructure and force main to serve a project known as Saddle Ridge and its surrounding area. In accordance with the Agreement, the Developer will install sub-regional infrastructure in parallel with their development infrastructure to serve the project and the area that surrounds it.

**M 623 15
Approve
Saddle
Ridge
Oversizing
Infra-
structure
Agreement**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council President is authorized to execute the Saddle Ridge Oversizing Infrastructure Agreement between Sussex County and Seaside Communities, RDC, LLC in accordance with Section 110-83 of the Sussex County Code, as presented on December 15, 2015.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Old
Business/
CU 2025**

Old Business

Under Old Business, the Council considered Conditional Use No. 2025 filed on behalf of Rudy South c/o T&C Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on August 27, 2015 at which time action was deferred. On September 24, 2015, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on September 29, 2015 at which time action was deferred.

**M 624 15
Adopt
Proposed
Ordinance
(CU 2025)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT SALES, SERVICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 27.84 ACRES, MORE OR LESS" (Conditional Use No. 2025) filed on behalf of Rudy South c/o T&C Properties, LLC.

Motion Denied: 4 Nays, 1 Absent.

M 624 15
(continued)

Vote by Roll Call: **Mrs. Deaver, Nay; Mr. Cole, Nay;**
 Mr. Arlett, Nay; Mr. Wilson, Absent;
 Mr. Vincent, Nay

Old
Business/
CU 2026

The Council considered Conditional Use No. 2026 filed on behalf of Cristian Omar Hernandez Perez and Terri L. Martin.

The Planning and Zoning Commission held a Public Hearing on this application on September 24, 2015 at which time action was deferred. On October 15, 2015, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on September 29, 2015 at which time action was deferred.

M 625 15
Adopt
Proposed
Ordinance/
CU 2026

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOME BASED BUSINESS (AUTO REPAIR, DETAILING, AND AUTO RESALES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.982 ACRES, MORE OR LESS” (Conditional Use No. 2026) filed on behalf of Cristian Omar Hernandez Perez and Terri L. Martin.

Motion Denied: **4 Nays, 1 Absent.**

Vote by Roll Call: **Mrs. Deaver, Nay; Mr. Cole, Nay;**
 Mr. Arlett, Nay; Mr. Wilson, Absent;
 Mr. Vincent, Nay

Old
Business/
CZ 1769

The Council considered Change of Zone No. 1769 filed on behalf of Ocean Atlantic Communities, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 26, 2015 at which time action was deferred. On April 9, 2015, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on May 5, 2015 at which time action was deferred.

M 626 15
Adopt
Ordinance
No. 2429
CZ 1769

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2429 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 36.98 ACRES, MORE OR LESS” (Change of Zone No. 1769) filed on behalf of Ocean Atlantic Communities,

**M 626 15
(continued)**

LLC.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

**Old
Business/
CU 2012**

The Council considered Conditional Use No. 2012 filed on behalf of Ocean Atlantic Communities, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 26, 2015 at which time action was deferred. On April 9, 2015, the Commission recommended that the application be approved, with the following conditions:

- A. There shall be no more than 147 units being a mixture of 43 single family units, 46 duplex units, and 58 townhouse units.**
- B. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- D. All entrance and roadway improvements shall comply with DelDOT requirements.**
- E. As offered by the Applicant, a five (5) foot easement adjacent to the railroad right-of-way shall be dedicated for use as part of the proposed Georgetown – Lewes Trail and a parking area as shown on the Preliminary Site Plan shall be provided for access to the Trail for the general public.**
- F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- G. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. There shall also be a 20 foot wide buffer along the common boundary with the Villages of Five Points development. The landscaping plan, which may include existing vegetation, shall be included as part of the Final Site Plan.**
- H. The development will be served as part of a Sussex County Sewer District and central water will be provided by a public utility company.**
- I. The clubhouse, pool and playground amenities shall be constructed prior to the issuance of the 73rd residential building permit for the project.**
- J. Federal wetlands shall be maintained as non-disturbance areas, except where authorized by Federal and State permits. The wetland areas shall be clearly marked on the site with permanent markers to**

**Old
Business/
CU 2012
(continued)**

- prevent disturbance.
- K.** As proposed by the Applicant, there shall be a 20 foot buffer from all Federal wetlands and a 50 foot buffer from all tidal wetlands.
 - L.** Any site remediation work required by DNREC as a result of the site study performed by Environmental Alliance, Inc. shall be completed in accordance with all DNREC instructions.
 - M.** As indicated by the Applicant, the development shall be operated as an “age restricted, over 55” community as that term is generally interpreted and governed by Federal Law.
 - N.** Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. and Saturdays between the hours of 9:00 a.m. and Noon. The Applicant shall make every effort to establish a temporary construction entrance via Atlantic Concrete and not Tulip Drive.
 - O.** As requested by the Villages of Five Points, there shall not be interconnecting trails between the Villages of Five Points and the rail trail. Instead, the area where the interconnecting trail was to be located shall now be a 20 foot wide vegetated buffer, like others along the perimeter of the project.
 - P.** As stated by the Applicant, trees shall be preserved to the maximum extent possible. The Final Site Plan shall show all areas where existing trees will not be disturbed.
 - Q.** This preliminary approval is contingent upon the Applicant submitting a Revised Preliminary Site Plan either depicting or noting the conditions of approval on it. The staff shall approve the Revised Preliminary Site Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.
 - R.** The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - S.** The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

The County Council held a Public Hearing on this application on May 5, 2015 at which time action was deferred.

**M 627 15
New
Condition N
for
CU 2012**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to delete Condition N as recommended by the Planning and Zoning Commission and replace it with Condition N (1 through 10), as read into the record and as amended:

- N.**
 - 1.** Construction, site work, grading and deliveries of construction materials, landscaping materials and fill, on, off and to the property shall only occur from Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m. There shall be no construction, site work, grading, or deliveries on

M 627 15
New
Condition N
for
CU 2012
(continued)

Saturday or Sunday.

- 2. No vibratory rollers or tampers shall be used during road construction on the west side of the wetlands adjacent to Dutch Acres.**
- 3. No overflow parking shall be located on the west side of the wetlands adjacent to Dutch Acres that would face the rear of homes located on Tulip Drive.**
- 4. A twenty (20) foot forested buffer will be planted and maintained along the rear of lots in Dutch Acres bordering the site except for Lots 1, 2 and 3, which shall receive similar plantings and the maximum buffer permissible considering the location of the project entrance road.**

The buffer shall be planted within six (6) months of the commencement of site construction and shall be planted with Leland Spruce or similar trees five (5) feet or higher and appropriate fill-in shrubbery in order to create a natural screen along the rear of the Dutch Acres lots.

- 5. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of two way stop signs at the intersection of Tulip Drive and Road "A" (the Site's entrance road). It is understood that this item is subject to DelDOT's approval. The developer agrees and commits to pay the cost of the stop signs upon the approval of DelDOT, provided said approval is granted within three years from the date of Final Site Plan approval for the development.**
- 6. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a cul-de-sac at the southern end of the residential section of Tulip Drive, if desired by the majority of lot owners in Dutch Acres. It is understood that this item is subject to DelDOT's approval. The Developer agrees and commits to pay the cost of construction of a cul-de-sac upon approval of DelDOT, provided said approval is granted within three years from the date of the Final Site Plan approval for the development.**
- 7. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a fully operational traffic signal at the northern intersection of Tulip Drive and Route 1. The Developer agrees and commits the sum of up to \$200,000 for the specific purpose of the installation of a fully operational traffic signal at this intersection, for a period of three years from the date of Final**

**M 627 15
New
Condition N
for
CU 2012
(continued)**

Site Plan approval for the development. It is understood that this item is subject to DelDOT's approval.

- 8. A construction entrance will be provided through the property of Atlantic Concrete and all construction traffic shall utilize that entrance only.**
- 9. No units shall be constructed between the wetlands around Black Hog Gut and Dutch Acres and that area shall remain undisturbed and in its natural vegetative state.**
- 10. Any street and/or driveway crossing over wetlands shall be subject to the review and approval of the U.S. Army Corps of Engineers and DNREC, if required.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 628 15
Amend
Condition A
for
CU 2012**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition A as recommended by the Planning and Zoning Commission to read "There shall be no more than 134 units being a mixture of 43 single family units and the balance split between duplex units and townhouse units."

Motion Adopted: 4 Yeas, 1 Absent

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

**M 629 15
Adopt
Ordinance
No. 2430/
CU 2012**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2430 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MIXED RESIDENTIAL USE WITH MULTI-FAMILY DWELLINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 37.26 ACRES, MORE OR LESS" (Conditional Use No. 2012) filed on behalf of Ocean Atlantic Communities, LLC, with the following conditions, as amended:

- A. There shall be no more than 134 units being a mixture of 43 single family units, and the balance split between duplex units and townhouse units.**
- B. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and**

**M 629 15
Adopt
Ordinance
No. 2430/
CU 2012
(continued)**

- sedimentation control facilities and other common areas.
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
 - D. All entrance and roadway improvements shall comply with DelDOT requirements.**
 - E. As offered by the Applicant, a five (5) foot easement adjacent to the railroad right-of-way shall be dedicated for use as part of the proposed Georgetown – Lewes Trail and a parking area as shown on the Preliminary Site Plan shall be provided for access to the Trail for the general public.**
 - F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
 - G. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. There shall also be a 20 foot wide buffer along the common boundary with the Villages of Five Points development. The landscaping plan, which may include existing vegetation, shall be included as part of the Final Site Plan.**
 - H. The development will be served as part of a Sussex County Sewer District and central water will be provided by a public utility company.**
 - I. The clubhouse, pool and playground amenities shall be constructed prior to the issuance of the 73rd residential building permit for the project.**
 - J. Federal wetlands shall be maintained as non-disturbance areas, except where authorized by Federal and State permits. The wetland areas shall be clearly marked on the site with permanent markers to prevent disturbance.**
 - K. As proposed by the Applicant, there shall be a 20 foot buffer from all Federal wetlands and a 50 foot buffer from all tidal wetlands.**
 - L. Any site remediation work required by DNREC as a result of the site study performed by Environmental Alliance, Inc. shall be completed in accordance with all DNREC instructions.**
 - M. As indicated by the Applicant, the development shall be operated as an “age restricted, over 55” community as that term is generally interpreted and governed by Federal Law.**
 - N.**
 - 1. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill, on, off and to the property shall only occur from Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m. There shall be no construction, site work, grading, or deliveries on Saturday or Sunday.**
 - 2. No vibratory rollers or tampers shall be used during road construction on the west side of the wetlands adjacent to Dutch Acres.**
 - 3. No overflow parking shall be located on the west side of the wetlands adjacent to Dutch Acres that would face the rear of homes located on Tulip Drive.**

**M 629 15
Adopt
Ordinance
No. 2430/
CU 2012
(continued)**

- 4. A twenty (20) foot forested buffer will be planted and maintained along the rear of lots in Dutch Acres bordering the site except for Lots 1, 2 and 3, which shall receive similar plantings and the maximum buffer permissible considering the location of the project entrance road.**
The buffer shall be planted within six (6) months of the commencement of site construction and shall be planted with Leland Spruce or similar trees five (5) feet or higher and appropriate fill-in shrubbery in order to create a natural screen along the rear of the Dutch Acres lots.
- 5. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of two way stop signs at the intersection of Tulip Drive and Road "A" (the Site's entrance road). It is understood that this item is subject to DelDOT's approval. The developer agrees and commits to pay the cost of the stop signs upon the approval of DelDOT, provided said approval is granted within three years from the date of Final Site Plan approval for the development.**
- 6. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a cul-de-sac at the southern end of the residential section of Tulip Drive, if desired by the majority of lot owners in Dutch Acres. It is understood that this item is subject to DelDOT's approval. The Developer agrees and commits to pay the cost of construction of a cul-de-sac upon approval of DelDOT, provided said approval is granted within three years from the date of the Final Site Plan approval for the development.**
- 7. The Developer shall support and assist the owners of lots in Dutch Acres in requesting DelDOT's approval of a fully operational traffic signal at the northern intersection of Tulip Drive and Route 1. The Developer agrees and commits the sum of up to \$200,000 for the specific purpose of the installation of a fully operational traffic signal at this intersection, for a period of three years from the date of Final Site Plan approval for the development. It is understood that this item is subject to DelDOT's approval.**
- 8. A construction entrance will be provided through the property of Atlantic Concrete and all construction traffic shall utilize that entrance only.**
- 9. No units shall be constructed between the wetlands around Black Hog Gut and Dutch Acres and that area shall remain undisturbed and in its natural vegetative state.**
- 10. Any street and/or driveway crossing over wetlands shall be subject to the review and approval of the U.S. Army Corps of Engineers and DNREC, if required.**

**M 629 15
Adopt
Ordinance
No. 2430/
CU 2012
(continued)**

- O. As requested by the Villages of Five Points, there shall not be interconnecting trails between the Villages of Five Points and the rail trail. Instead, the area where the interconnecting trail was to be located shall now be a 20 foot wide vegetated buffer, like others along the perimeter of the project.**
- P. As stated by the Applicant, trees shall be preserved to the maximum extent possible. The Final Site Plan shall show all areas where existing trees will not be disturbed.**
- Q. This preliminary approval is contingent upon the Applicant submitting a Revised Preliminary Site Plan either depicting or noting the conditions of approval on it. The staff shall approve the Revised Preliminary Site Plan upon confirmation that the Conditions of Approval have been depicted or noted on it.**
- R. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent

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

**Old
Business/
CZ 1783**

The Council considered Change of Zone No. 1783 filed on behalf of Cauthen Ventures DE, LLC.

The Planning and Zoning Commission held a Public Hearing on the application on September 10, 2015 at which time action was deferred. On October 15, 2015, the Commission recommended that the application be approved.

The County Council held a Public Hearing on the application on October 13, 2015.

**M 630 15
Adopt
Ordinance
No. 2431/
CZ 1783**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2431 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.79 ACRES, MORE OR LESS" (Change of Zone No. 1783) filed on behalf of Cauthen Ventures DE, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

**M 630 15
(continued)**

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

**Old
Business/
CU 2028**

The Council considered Conditional Use No. 2028 filed on behalf of Cauthen Ventures DE, LLC.

The Planning and Zoning Commission held a Public Hearing on the application on September 10, 2015 at which time action was deferred. On October 15, 2015, the Commission recommended that the application be approved, with the following conditions:

- A. There shall be no more than 61 townhouse units constructed on the site.**
- B. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's requirements.**
- C. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.**
- D. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- E. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- F. As proffered by the Applicant, a five foot pedestrian/bike path, properly marked, will be constructed in the internal drive right-of-way which will connect to the existing sidewalk on Route 54.**
- G. The Applicant shall submit, as part of the Site Plan review, a landscape plan showing the proposed tree and shrub landscape design.**
- H. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.**
- I. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- J. A 20-foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.**
- K. As proffered by the Applicant, as many existing trees shall be retained as possible throughout the site. The undisturbed areas and trees that will not be removed shall be shown on the Landscape Plan that is included as part of the Final Site Plan.**
- L. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. The**

**Old
Business/
CU 2028
(continued)**

- wetland areas shall be clearly marked on the site with permanent markings to prevent disturbance.
- M. Construction, site work, grading, and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. and on Saturday between the hours of 9:00 a.m. and Noon.**
 - N. This preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The staff shall approve the revised Plan upon confirmation that conditions of approval have been depicted or noted on it.**
 - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The County Council held a Public Hearing on the application on October 13, 2015.

**M 631 15
Adopt
CU 2028**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Conditional Use No. 2028 filed on behalf of Cauthen Ventures DE, LLC.

**Motion
Rescinded**

Mr. Cole stated that he would like to suggest an amendment to the conditions recommended by the Planning and Zoning Commission relating to hours of operation.

Mr. Cole and Mrs. Deaver rescinded their Motion and Second.

Council members discussed hours of operation.

**M 632 15
Amend
Condition M
for CU 2028**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition M recommended by the Planning and Zoning Commission to read as follows: "Construction, site work, grading and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. with no hours on Saturday or Sunday."

**Motion
Rescinded**

Mr. Arlett suggested permitting Saturday hours during the off-season.

Mr. Cole and Mrs. Deaver rescinded their Motion and Second.

**M 633 15
Amend
Condition M
for CU 2028**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Condition M recommended by the Planning and Zoning Commission to read: "Construction, site work, grading and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. with no hours on Saturday or Sunday between May 1 and September 30; during the rest of the year, the hours on Saturday shall be from 9:00 a.m. and Noon, with no Sunday hours."

**M 633 15
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 634 15
Adopt
Ordinance
No. 2432/
CU 2028**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2432 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.79 ACRES, MORE OR LESS” (Conditional Use No. 2028) filed on behalf of Cauthen Ventures DE, LLC, with the following conditions:

- A. There shall be no more than 61 townhouse units constructed on the site.**
- B. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s requirements.**
- C. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.**
- D. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- E. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- F. As proffered by the Applicant, a five foot pedestrian/bike path, properly marked, will be constructed in the internal drive right-of-way which will connect to the existing sidewalk on Route 54.**
- G. The Applicant shall submit, as part of the Site Plan review, a landscape plan showing the proposed tree and shrub landscape design.**
- H. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.**
- I. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- J. A 20-foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.**
- K. As proffered by the Applicant, as many existing trees shall be retained as possible throughout the site. The undisturbed areas and**

**M 634 15
Adopt
Ordinance
No. 2432/
CU 2028
(continued)**

- trees that will not be removed shall be shown on the Landscape Plan that is included as part of the Final Site Plan.
- L. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. The wetland areas shall be clearly marked on the site with permanent markings to prevent disturbance.**
 - M. Construction, site work, grading and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m. with no hours on Saturday or Sunday between May 1 and September 30; the rest of the year, the hours on Saturday shall be from 9:00 a.m. and Noon, with no Sunday hours."**
 - N. This preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The staff shall approve the revised Plan upon confirmation that conditions of approval have been depicted or noted on it.**
 - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Council
Members'
Comments**

Council Members' Comments

Mr. Arlett wished everyone a Merry Christmas and Happy New Year.

Mrs. Deaver asked that the County's planners review the Code and offer suggestions for improvement.

Mr. Lawson noted that the Planning and Zoning Department is working on suggestions for Code amendments and that the County has consultants that will also provide recommendations.

Mr. Vincent asked that everyone keep Councilman Wilson in their thoughts and prayers.

**M 635 15
Go Into
Executive
Session**

At 12:26 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation.

Motion Adopted: 4 Yeas, 1 Absent.

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

- Executive Session** At 12:28 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation. The Executive Session concluded at 12:57 p.m.
- M 636 15 Reconvene Regular Session** At 12:58 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.
- Motion Adopted: 4 Yeas, 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea
- E/S Action** There was no action on Executive Session matters.
- M 637 15 Recess** At 12:58 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett to recess until 1:30 p.m.
- Motion Adopted: 4 Yeas, 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea
- M 638 15 Reconvene** A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to reconvene at 1:34 p.m.
- Motion Adopted: 4 Yeas, 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea
- Public Hearing/
CU 2034** A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND BREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS" (Conditional Use No. 2034) filed on behalf of Beachfire Brewery Co., LLC (Tax I.D. No. 334-5.00-215.00, 215.01, 216.00, 217.01, 218.00 & 219.00) (911 Address: 32490 Lewes Georgetown Highway, Lewes).
- The Planning and Zoning Commission held a Public Hearing on this application on November 12, 2015 at which time action was deferred. On December 10, 2015, the Commission recommended that the application be approved with the following conditions:

**Public
Hearing/
CU 2034
(continued)**

- A. As stated by the Applicant, there shall be no brewery operations within the former church structure, nor shall there be any patron or service bar serving alcoholic beverages located within the church structure. The kitchen facilities will also be situated in an addition to the structure.**
- B. As stated by the Applicant, the existing church structure shall be preserved to the fullest extent possible. The Final Site Plan shall contain details as to the preservation of this structure and its integration into the new restaurant and brewery structure being built on this site.**
- C. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the brewery operation to the Sussex County Sewer System.**
- D. All roadway and intersection improvements shall be subject to the requirements of DelDOT.**
- E. Stormwater management and erosion and sedimentation control shall be designed and operated using Best Management Practices to promote groundwater recharge,**
- F. The Sussex Conservation District shall review and approve the Final Site Plan.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated November 12 and December 10, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing and recommendation of approval.

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

Hal Dukes, Attorney with Tunnel & Raysor, P.A., was present on behalf of Beachfire Brewery Co., LLC. He stated that his clients are seeking a Conditional Use to operate a family restaurant at the site of the John Wesley United Methodist Church in Belltown; that the building is an iconic structure in the County; that regular church services have not been held in the church building since 2007; that the site has been for sale for years; that the building is deteriorating and needs repairs; that the church congregation needs funds so they can move to a different building; that the Historical Society and Preservation Delaware want the building to be preserved; that the residents in the area need a reasonably priced family restaurant on the west side of Route One; and that DelDOT would like the entrance on the Route 9 corridor to be reconfigured and modified.

The church leaders presented a history of the site, their problems with the site, and their future plans. Jeron Duffy, President of the Trustees of Faith United Methodist Church stated that the church members voted to sell the

**Public
Hearing/
CU 2034
(continued)**

building; that their church has merged and moved to another location; that they have no objection to it being used as a restaurant; and that the church will not lose its outside appearance and it will be attached to other buildings that pertain to the restaurant.

Leon Farlow, a Belltown resident, read a letter into the record from his wife, Chrystlyn Farlow, who is in full support of the application. A written copy of the letter was submitted for inclusion in the record. Mr. Farlow also spoke in support of the application and he stated that this project will result in an improvement to an area that has several dilapidated buildings that are an eyesore.

Harry Metcalfe and Bryan Keith, partners in Beachfire Brewing Co. and the potential new owners of the site, discussed their relationship with Sussex County, their experience in the restaurant business, their family friendly operations in the past, their proposal for a restaurant/brewery on this site; the preservation and use of the existing church and the additional structures that they would build on the site; the site plan, and the jobs that will be created.

David Kuklish, Professional Engineer, presented the site plan including information on entrances, sewer, parking, pedestrian crosswalk, and stormwater.

Betty Tustin, Professional Engineer, discussed traffic, including access points, safety improvements to be made, volume of traffic expected, and the reduction of the number of access points along Route 9, Church Street, and Beaver Dam Road that currently exist.

Public comments were heard in support of the application.

Steven Mumford spoke in favor of the application and commented that the application is an extraordinary opportunity for the church, for the community, for beautification, and for economic development. He stated that the concern about traffic will be alleviated by their plans to move the entrances and divert the traffic.

Public comments were heard in opposition to the application.

Lynne Knoll, Ken Servais, Victoria Gibbs, Mike Miller, Judith Cannon, Rev. Bravon Duffy, and Robert Steinbeck spoke in opposition to the application. They expressed concerns about the proposed brewery use, not the restaurant and stated that some of the residents of the area have fought to preserve the integrity of Belltown; that they do not have a concern about the church property being sold, only the intended use; that traffic issues already exist and will be increased; that they are concerned about the conduct of the people that cater to the restaurant/brewery; that a brewery may be an insult to the residential character of the area; that crime will increase in the area; that the church is currently used weekly; that a lot of

**Public
Hearing/
CU 2034
(continued)**

the residents that live in Belltown are elderly; that the residents are concerned about traffic and noise; that properties are being offered for sale or sold in the Belltown area, some with commercial intent; that residents are concerned about the narrowness of Church Street and the difficulties of turning into or out of Church Street and Salt Marsh Boulevard, across from Church Street; that the residents of Henlopen Landing across Beaver Dam Road may support a restaurant, but not a brew pub; that a bar should not be permitted in the church building; that traffic concerns also exist due to the close proximity to the intersection of Plantation Road, Beaver Dam Road, and the Lewes Georgetown Highway connector; that vehicles stopped at Salt Marsh Boulevard cannot see traffic coming from the connector due to stacked vehicles waiting to turn left into the connector; that Church Street needs to be widened; that traffic backups and traffic accidents are already a concern; that the intended use will worsen traffic conditions; that the restaurant/brewery will result in more traffic going through Salt Marsh Boulevard; that no one is policing traffic on Salt Marsh Boulevard; that the restaurant is a good idea, but the wrong location; that development of the number of unimproved residential building lots in the area will only worsen the current traffic conditions along Beaver Dam Road; that a restaurant that recently closed in the Vineyards development closed within 1.5 years of opening; that Belltown is primarily a residential development; that the church has been utilized for regular church activities, weddings, and funeral services regularly; that there are other locations in the area that are properly zoned for a restaurant; that the community will lose the historical significance of the church; and that it was suggested that the County purchase the property and create a park for the community.

Mark Côté and Bill Brockenbrough of DelDOT were in attendance and commented that they want the access/entrance to be off of Church Road; that there will some minor widening of Church Road; and that final determinations have not been made yet regarding turn lanes, accesses, etc.; that DelDOT will be starting another study in this area in the next year to look at connections and operational improvements; that the Applicant may or may not be required to contribute to improvements; and that the Applicant is not the cause of Five Points failing in the area and should not be required to fix any of those things.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 639 15
Defer
Action/
CU 2034**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on Conditional Use No. 2034 filed on behalf of Beachfire Brewery Co., LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

Recess

The Council took a five minute recess.

**Public
Hearing/
CU 2035**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS AS AGRICULTURAL FERTILIZER FOLLOWING DNREC APPROVAL TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 203.0 ACRES, MORE OR LESS” (Conditional Use No. 2035) filed on behalf of Synagro Central, LLC (Tax I.D. No. 133-3.00-4.00 and 133-7.00-1.00, 4.00, 11.00 and 12.10 (all of or parts of) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on November 12, 2015 at which time action was deferred. On December 10, 2015, the Commission recommended that the application be approved subject to the following conditions:

- A. The use shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.**
- B. There shall not be any stockpiling of sludge materials on the site that are not actively being applied to the site as agricultural fertilizer.**
- C. This Conditional Use shall be valid concurrent with DNREC’s permit for the use. If the DNREC permits shall be terminated or expire, this Conditional Use shall also expire.**
- D. Bio-solid application shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.**
- E. There shall be buffers of at least 25 feet from all property lines, 100 feet from all off-site dwellings, 100 feet from potable wells, 25 feet from non-potable wells, 15 feet from public roads, 25 feet from streams or other bodies of water, and 25 feet from all drainage ditches. These requirements shall be subject to any increased buffers or separation distances as mandated by State or Federal requirements.**
- F. As stated by the Applicant, Tax Map I.D. 133-7.00 Parcel 1.00 is removed from this application and no application of bio-solids as agricultural fertilizer will be applied to this parcel. The Applicant stated that vegetables are grown on this parcel and therefore bio-solid application is not appropriate.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated November 12 and December 10, 2015.)

**Public
Hearing/
CU 2035
(continued)**

Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing and recommendation of approval.

The Council found that Avery Dunn was present on behalf of Synagro Central, LLC with James Baxter IV. They commented that the purpose of this application is to accommodate bio-solids from the Georgetown Wastewater Treatment Plant; that the bio-solids are used as an agricultural fertilizer which will be transported in closed tanker trucks and will be injected below the surface; that Synagro has been applying bio-solids to the Baxter Farm for over 20 years; that they are requesting that additional parcels be approved for bio-solids application so they can better manage the land; that the parcels were previously permitted by the Town of Georgetown but the Town has since let their permit lapse; that Parcel 133-7.00-1.00 was recommended for removal by the Planning and Zoning Commission due to a misunderstanding; that this parcel is not a contiguous piece of land and is divided by Governor Stockley Road; that they still plan to apply bio-solids on the piece of this parcel on the west side of the road and that the east side of the parcel is used for vegetable production; that the land will be farmed for approved crops under the DNREC bio-solids regulations; therefore, they asked for Parcel No. 133-7.00-1.00 to be included in the Conditional Use application along with the rest of the application (listed in the title of the ordinance). Ms. Dunn distributed updated maps to more clearly show the property. Mr. Baxter stated that he resides on the site. It was noted that the DNREC permit is for a term of five years after which time it will be reviewed for renewal.

Mr. Lank commented that the County was not notified by DNREC that the Town's permit had lapsed. It was noted that a letter should be sent to DNREC requesting notification if a permit expires.

There were no public comments.

The Public Hearing and public record were closed.

**M 640 15
Delete
Condition F/
CU 2035**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to delete Condition F recommended by the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 641 15
Amend
Condition C/
CU 2035**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Condition C recommended by the Planning and Zoning Commission to include the following language: "The Applicant shall notify the Sussex County Planning and Zoning Office if the permit terminates or expires."

**M 641 15
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 642 15
Adopt
Ordinance
No. 2433/
CU 2035**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2433 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS AS AGRICULTURAL FERTILIZER FOLLOWING DNREC APPROVAL TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 203.0 ACRES, MORE OR LESS” (Conditional Use No. 2035) filed on behalf of Synagro Central, LLC, with the following conditions:

- A. The use shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.**
- B. There shall not be any stockpiling of sludge materials on the site that are not actively being applied to the site as agricultural fertilizer.**
- C. This Conditional Use shall be valid concurrent with DNREC’s permit for the use. If the DNREC permits shall be terminated or expire, this Conditional Use shall also expire. The Applicant shall notify the Sussex County Planning and Zoning Office if the permit terminates or expires.**
- D. Bio-solid application shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.**
- E. There shall be buffers of at least 25 feet from all property lines, 100 feet from all off-site dwellings, 100 feet from potable wells, 25 feet from non-potable wells, 15 feet from public roads, 25 feet from streams or other bodies of water, and 25 feet from all drainage ditches. These requirements shall be subject to any increased buffers or separation distances as mandated by State or Federal requirements.**
- F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 643 15
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 4:35 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

**M 643 15
(continued)**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Arlett, Yea; Mr. Wilson, 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.}