

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 17, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 17, 2024, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 646 24
Approve
Agenda**

Mr. Lawson reported that the Approval of Minutes – December 10, 2024 can be removed from the agenda. A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the agenda as amended.

Motion Adopted: 5 Yeas

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

**M 647 24
Approve
Consent
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve the following items under the Consent Agenda:

- 1. Proclamation Request – Cape Henlopen High School Field Hockey Division I State Champions**
- 2. Proclamation Request – Delmar High School Field Hockey Division II State Champions**
- 3. Proclamation Request – Sussex Academy High School Boys' Soccer Division II State Champions**
- 4. Proclamation Request – Indian River High School Unified Football Champions**
- 5. Proclamation Request – Indian River High School Football Division 1A State Champions**

Motion Adopted: 5 Yeas

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

Correspondence Mr. Moore reported that letters were received from Delmarva Council of Boy Scouts and Family Promises of Southern Delaware thanking Council for their donation.

Public Comments Public comments were heard.

Ms. Blair Brown spoke about growth occurring in Sussex County.

Ms. Christy Wimmer spoke about the Voluntary School Assessment.

Mr. Lawrence Green thanked Councilwoman Green for her service to Sussex County.

Ms. June Rose Fatcher thanked County Council for their continued support of the Police Unity Tour.

Mr. Jason Hale spoke about growth in Sussex County and impact fees.

Ms. Eul Lee thanked Mr. Vincent, Mrs. Green and Mr. Schaeffer for their service to the County.

A caller spoke about impact fees in Sussex County.

Recognition/Council Members Recognition of Council Members Michael H. Vincent, Cynthia C. Green and Mark G. Schaeffer was given.

Appointment Mr. Lawson reported that an appointment is needed for District 1 for the Board of Adjustments and Appeals Member.

M 648 24 Approve Board of Adjustment & Appeals A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved that the Sussex County Council appoints Mr. Keith Lecates to the Sussex County Board of Adjustments and Appeals Member effective immediately for a term of four years until June 2028.

Motion Adopted: 5 Yeas

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

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

Report

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: The Estuary – Phase 4F (Construction Record) effective November 26th and Brentwood (FKA Coral Lakes & Coral Crossing) – Phase 1 (Construction Record) effective December 5th.

2. Christmas and New Year’s Holidays

Please note, County offices will be closed on December 23rd, 24th and 25th, to celebrate the Christmas holiday and January 1st for the New Year’s holiday. The next regularly scheduled Council meeting will be held on Tuesday, January 7, 2025, at 10:00 a.m.

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

Board of Assessment Members

Gina Jennings, Finance Director presented appointments of Board of Adjustments and Appeals Member for Council’s consideration.

**M 649 24
Approve Board of Assessment Members**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved that the Sussex County Council, appoint the following individuals to the Board of Assessment Review with the respective terms; for a 3-year term: Eric Davis, Ashley Godwin and Thomas Roth, for a 2-year term: Anne Angel and Karen Wahner and alternates: Renee Edge, James O’Rourke and Irene Baxter-Plank.

Motion Adopted: 5 Yeas

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

Referees Appointment

Gina Jennings, Finance Director presented referees appointments for Council’s concurrence.

**M 650 24
Concurrence on Referee Appointments**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved that the Sussex County Council authorizes the Finance Director to appoint the recommended 15 referees as presented.

Motion Adopted: 5 Yeas

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

Excite Loan Update Bill Pfaff, Economic Development Director presented an update on the Excite Sussex Loan Program for Council's information.

M 651 24 Approve ExciteSussex Fund Increase A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, be it moved that the Sussex County Council approve the amended agreement between Sussex County and Grow America Fund, Inc., and approve the additional increase to the ExciteSussex Fund. This increased funding will significantly enhance our ability to support local businesses and foster continued economic growth throughout Sussex County.

Motion Adopted: 5 Yeas

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

P&Z On-Call Services Jamie Whitehouse, Planning & Zoning Director presented a recommendation for contractors for on-call planning services for Council's consideration.

M 652 24 Approve P&Z On-Call Services Contractor A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved that Sussex County Council approves the six year award under the RFP to AECOM Technical Services, Inc.; and Century Engineering, Inc.; and McCormick Taylor, Inc.

Motion Adopted: 5 Yeas

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

Peninsula Community/CO No. 1 Mark Parker, Assistant County Engineer presented change order no. 1 and a substantial completion request for Peninsula Community Road Repairs for Council's consideration.

M 653 24 Approve CO No. 1/ Peninsula Community A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon on the recommendation of the Sussex County Engineering Department that change order no. 1 for contract T24-12, Peninsula Community Road repairs be approved in the amount of \$36,127.26 and substantial completion be granted effective December 6, 2024, with any retainage released in accordance with the contract documents.

Motion Adopted: 5 Yeas

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

Lagoon Solar Hans Medlarz, Project Engineer presented a lease amendment for phases 2 & 3 for lagoon solar for Council's consideration.

M 654 24 Approve Amendment Phases 2 & 3 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that Council approve the amended and restated solar energy lease and easement agreements with addenda, the amended and restated memorandum of solar energy lease and easement agreements as well as the amended and restated decommission funding, agreements for Blacktail I, II & III, as presented.

Motion Adopted: 5 Years

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

Old Business/ CU2515 Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A HI-1 HEAVY INDUSTRIAL DISTRICT FOR AN ELECTRIC SUBSTATION AND UTILITY USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 140.25 ACRES, MORE OR LESS" (property lying on the northwest side of Gate A Road, located off Iron Branch Road [S.C.R. 331]) (911 Address: N/A) (Tax Map Parcel: 233-2.00-2.01) filed on behalf of Renewable Redevelopment, LLC.

The County Council held a Public Hearing on the application at its meeting on July 30, 2024. At the conclusion of the Public Hearing, action on the application was deferred for further consideration.

M 655 24 Approve CU2515/ DENIED A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A HI-1 HEAVY INDUSTRIAL DISTRICT FOR AN ELECTRIC SUBSTATION AND UTILITY USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 140.25 ACRES, MORE OR LESS".

Motion DENIED: 4 Nays, 1 Yea

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

Mrs. Green, Mr. Schaeffer, Mr. Hudson and Mr. Rieley voted no for the reasons provided.

**Old
Business/
CU2545**

Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION "H" AND THE AMENDMENT/DELETION OF CONDITION "R" CONTAINED WITHIN CONDITIONAL USE NO. 2359 (ORDINANCE NO. 2964) REGARDING THE REQUIREMENTS FOR LANDSCAPING, AND FOR THE INSTALLATION OF GATES ON STOCKLEY BLVD BETWEEN THE GOVERNORS COMMUNITY AND THE PROPOSED COTTAGES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and the south side of Gills Neck Road [S.C.R. 267] at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Parcel: 335-12.00-3.00 [p/o]) filed on behalf of J.G. Townsend Jr. & Co.

The County Council held a Public Hearing on the application at its meeting on December 10, 2024. At the conclusion of the meeting, and as a recommendation on the application had not been received from the Planning & Zoning Commission, the Council deferred action on the application, holding the record open for both the receipt of the Planning & Zoning Commission’s recommendation and also for any additional public comments received before the end of business on Monday, December 16, 2024. The Planning & Zoning Commission did make a recommendation for approval during the December 12, 2024, meeting for the 11 reasons stated and subject to the revised wording as outlined. Mr. Whitehouse reported that additional comments were received and were circulated to County Council.

**M 656 24
Amend Item
No. 11/
CU2545**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to amend Item No. 11 and their conditions be deleted and that condition 9R as was originally passed in CU2359 application, also Ordinance No. 2964 be amended to remove the 2 references to King Highway and substitute Gills Neck Road in their place.

Motion Adopted: 5 Yeas

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

**M 657 24
Amend
Condition
9H/CU2545**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to delete the original condition 9H that read “Therefore, once construction is completed, this interconnectivity must remain open to all vehicular traffic at all times without obstruction” and keep the remainder of the condition as was originally approved in CU2359 application, also Ordinance No. 2964.

Motion Adopted: 4 Yeas, 1 Nay

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

M 658 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that the
Remove reasons given by Planning & Zoning be removed.
Reasons/

CU2545 **Motion Adopted:** 4 Yeas, 1 Nay

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

M 659 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt
Adopt Ordinance No. 3065 entitled "AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY
No. 3065/ RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION
CU2545 "H" AND THE AMENDMENT/DELETION OF CONDITION "R"
CONTAINED WITHIN CONDITIONAL USE NO. 2359 (ORDINANCE
NO. 2964) REGARDING THE REQUIREMENTS FOR LANDSCAPING,
AND FOR THE INSTALLATION OF GATES ON STOCKLEY BLVD
BETWEEN THE GOVERNORS COMMUNITY AND THE PROPOSED
COTTAGES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND
LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX
COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS" for the reasons
and conditions given by Planning & Zoning and as amended by this Council.

Motion Adopted: 4 Yeas, 1 Nay

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

Old Under Old Business, Jamie Whitehouse, Planning & Zoning Director
Business/ presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A
CU2454 CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON
A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK
HUNDRED, SUSSEX COUNTY, CONTAINING 309.6 ACRES, MORE OR
LESS" (property lying on northwest side of Shiloh Church Road [Rt. 74]
approximately 0.38 mile west of East Trap Pond Road [Rt. 62]) (911 Address:
N/A) (Tax Map Parcel: 232-8.00-44.01) (Zoning: AR-1 [Agricultural
Residential District]) filed on behalf of H&K Group LLC.

Mr. Whitehouse reported that a public hearing was held before Council on
November 19, 2024. At the conclusion of that public hearing, staff was

notified of an error in the short title of the location of the application. The application will be re-noticed, and new hearings will be held.

**Old
Business/
CU2543**

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

The County Council held a Public Hearing on the application at its meeting on December 10, 2024. At the conclusion of the Public Hearing, the Council closed the Public Record and deferred action on the application for further consideration.

**M 660 24
Approve
CU2543/
DENIED**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A COMMERCIAL HAULING, GOODS AND MATERIALS DELIVERY SERVICES, AND DRIVEWAY INSTALLATION BUSINESS TOGETHER WITH STORAGE OF VEHICLES, EQUIPMENT, AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.31 ACRES MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Proposed
Ordinance
Introduc-
tion**

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” filed on behalf of Holdren, LLC.

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MUTLI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL

OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” filed on behalf of Rudder Road, LLC.

The Proposed Ordinances will be advertised for a public hearing.

Council Member Comments **Mr. Schaeffer thanked Mr. Vincent, Mrs. Green, Mr. Rieley and Mr. Hudson for their service and his wife for allowing him to serve. He wished everyone a Merry Christmas and a Happy New Year.**

Mr. Vincent thanked his wife for allowing him to serve and being away from home. He added comments relating to the reassessment project.

M 661 24 Go Into Executive Session **At 12:02 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to go into Executive Session to discuss matters relating to personnel.**

Motion Adopted: 5 Yeas

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

Executive Session **At 12:12 p.m., an Executive Session was held in the Basement Caucus Room to discuss matters relating to personnel. The Executive Session ended at 12:16 p.m.**

M 662 24 Reconvene **At 12:19 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to come out of Executive Session back into Regular Session.**

Motion Adopted: 5 Yeas

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

M 663 24 Administrator Contract Update **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, authorize the President to update and execute the Employment Agreement with the Sussex County Administrator as follows: to extend the date of the contract until December 31, 2028.**

Motion Adopted: 4 Yeas, 1 Nay

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

M 664 24 Recess **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess until 1:30 p.m. Public Hearings.**

Motion Adopted: 5 Yeas

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

**M 665 24
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to reconvene.

Motion Adopted: 5 Yeas

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

Rules

Mr. Moore read the rules of procedures for public hearings.

**Public
Hearing/
CU2526**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND FARMERS MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.3 ACRES, MORE OR LESS” (properties are lying on the south side of Zion Church Road [Route 20], approximately 0.50 mile west of the intersection of Zion Church Road [Route 20] and New Road [Route 391]) (911 Address: 37051 Johnson Road, Selbyville) (Tax Map Parcels: 533-11.00-103.00 & 533-11.00-104.00) filed on behalf of Common Ground Hospitality.

Jamie Whitehouse, Planning & Zoning Director presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on October 23, 2024. At the meeting of November 13, 2024, the Planning & Zoning Commission recommended approval of the application for the 7 reasons and subject to the 9 recommended conditions as stated.

Ms. Mackenzie Peet, Esq., of Saul Ewing, spoke on behalf of the applicant that Common Ground Hospitality Group is a restaurant group which includes 4 restaurants and a catering division; that the 4 restaurants are, Hooked and Tail Chasers in Ocean City, MD, Off the Hook in Bethany Beach, DE, and Hooked Up in Millville, DE; that the Conditional Use is to open a new restaurant within an AR-1 zoning; that the proposed area is owned by H&M, Johnson Farms, LLC and one of the owners of the Common Ground Group is a relative of the Johnson Farms, LLC which will ensure that the land and its uses will stay within the family; that currently the site is operated agriculturally and grows its own produce and has chicken houses; that the building in which the restaurant would be is currently used as a roadside

**Public
Hearing/
CU2526
(continued)**

farmers market which received conditional approval under conditional use #1657 in 2006 for a produce market and sales facility; that the market aimed to sell products grown on site as well as those from other producers, local producers specifically; that this use was approved, but the market eventually closed in 2012 and nothing's been in this space since; that the concept is to open a farm to table restaurant while upgrading the existing buildings to help preserve the property; that it represents a natural progression of the previously approved use preserving the properties legacy, but also creating the opportunity to keep it within the family and maintaining its productivity, rather than allowing for alternative developments that may not reflect its historical significance; that the proposed restaurant will feature an interior area and a small outside seating area; that in 2019, the County issued a building permit (#201910080) for Johnson's Market and Table which allowed for the enclosure of existing overhangs and noted that it was a shell only; that the permit was accompanied by a comprehensive set of architectural plans detailing the construction of the addition to the existing pole barn structure, fit out of a new commercial kitchen, installation of new bar equipment and the inclusion of two new accessible bathrooms; that the plans also a restaurant equipment schedule; that the applicant interpreted the application as authorized to operate a restaurant; that the floor plan showed dining areas and a kitchen; that following discussions, it was found that a separate application was needed for restaurant operations; that the permit was stamped and approved in August of 2019; that the applicant appeared before the Commission on October 23, 2024; that on November 13, 2024, the Commission recommended approval of the application; that the applicant has reviewed the conditions; that the applicant requests hours of operation from 10:00 a.m. until 10:00 p.m.

There were no public comments.

The Public Hearing and the public record were closed.

**M 666 24
Add
Condition J/
CU2526**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to add Condition J to read "One lighted sign 32 square feet per side permitted on the property".

Motion Adopted: 5 Yeas

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

**M 667 24
Adopt
Ordinance
No. 3066**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 3066 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND FARMERS MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,

**M 667 24
Adopt
Ordinance
No. 3066/
CU2526
(continued)**

CONTAINING 71.3 ACRES, MORE OR LESS” (properties are lying on the south side of Zion Church Road [Route 20], approximately 0.50 mile west of the intersection of Zion Church Road [Route 20] and New Road [Route 391]) (911 Address: 37051 Johnson Road, Selbyville) (Tax Map Parcels: 533-11.00-103.00 & 533-11.00-104.00) for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended:

- 1. The use will occur within a small portion of a 71.3-acre parcel that has had a farm market known as “Johnson’s Country Market” located on it for decades. The remainder of the property will remain in agricultural use. This application simply seeks to add a restaurant to the long-standing use of the property.**
- 2. This use is an extension of ongoing agricultural use of the property and the surrounding farmland. The use promotes the agricultural industry in Sussex County.**
- 3. There is a mixture of commercial and residentially zoned properties in the vicinity of this site, including GR General Residential, HR-1 High-Density Residential, MR Medium Density Residential, L1 Limited Industrial, C1 General Commercial, C2 Medium Commercial, C3 Heavy Commercial, and B1 Neighborhood Business. Surrounding uses include Harris Teeter, Signatures Restaurant, and the Freeman Arts Pavilion near the intersection of Route 20 and Route 54 as well as other commercial and business uses.**
- 4. The site is located in the Coastal Area according to the Sussex County Comprehensive Plan. The Plan states that this type of use is appropriate within the Coastal Area.**
- 5. DelDOT has stated that the use will have a “negligible” impact on area roadways and traffic.**
- 6. The site will have sufficient areas for parking.**
- 7. With the conditions and limitations placed upon this Conditional Use, it will not adversely affect neighboring properties or area roadways.**
- 8. This recommendation is subject to the following conditions:**
 - a. The use shall be limited to a restaurant and farmers market located on 2.61 acres of the site as shown on the site plan that was presented during the public hearing.**
 - b. The restaurant shall not have a “drive-through” capability or design. Any expansion of the use may require an additional public hearing.**
 - c. The hours of operation shall be from 10:00 am until 10:00 pm, daily.**
 - d. Any security lighting shall only illuminate downward so that it does not shine on neighboring properties or roadways.**
 - e. All dumpsters or trash receptacles shall be screened from the view of neighboring properties and roadways. The location of these items shall be shown on the Final Site Plan.**
 - f. The consumption of alcoholic beverages shall be permitted within the restaurant and its patios on the site subject to the approval**

from the Delaware Office of the Alcoholic Beverage Control Commissioner.

- g. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
- h. The Final Site Plan shall be subject to the receipt of all applicable agency approvals, including but not limited to DelDOT, Sussex County Engineering, the Sussex Conservation District, and the State Fire Marshall.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.
- j. One lighted sign 32 square feet per side permitted on the property.

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CU2542**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION “D” FOR C/U 2264 (ORDINANCE NO. 2813) RELATING TO THE PERMITTED DAYS AND HOURS OF OPERATION FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRE, MORE OR LESS” (properties are lying on the southeastern side of Savannah Road [S.C.R. 443A], approximately 0.77 mile northeast of Westcoats Road [Rt. 12]) (911 Address: 1302 & 1304 Savannah Road, Lewes) (Tax Map Parcels: 335-8.18-15.00 & 16.00) filed on behalf of Lauden Investments, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on October 23, 2024. At the meeting of November 13, 2024, the Planning & Zoning Commission recommended approval of the application for the reasons stated and subject to the recommended revised conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director presented the application.

Mr. James Churchman, Esq., of Fuqua, Willard & Schab, spoke on behalf of Tim Willard, Esq., who represents the applicant; that the application is a conditional use to amend Condition “D” to allow weekend hours; that the initial application was to only allow Saturday hours, but that has been changed and submitted to the Planning & Zoning Department to now allow Saturday and Sunday hours; that the new proposed hours would be Saturday 8:00 a.m. to 8:00 p.m. and Sunday 10:00 a.m. to 5:00 p.m.; that the property was approved for a conditional use #1549 to use the parcel as a medical office; that the second parcel was purchased and that was granted a conditional use

**Public
Hearing/
CU2542
(continued)**

#1744 for a professional office; that in November of 2021, there was an amendment for both parcels, ordinance #2813; that both are the parcels are served by an entrance approved by DelDOT; that DelDOT did not require a traffic impact study to be completed; that there are 21 approved conditional uses since 2011 within a one-mile radius; that the current conditional use application is to amend the hours of operation, as Dr. Aponte wishes to rent out the professional building to a real estate office and they work weekends; that the properties within a mile radius have 21 conditional uses and out of those there are 10 that allow for Saturday hours, and 3 that have Sunday hours.

There were no public comments.

The Public Hearing and public record were closed.

**M 668 24
Adopt
Ordinance
No. 3067/
CU2542**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 3067 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION “D” FOR C/U 2264 (ORDINANCE NO. 2813) RELATING TO THE PERMITTED DAYS AND HOURS OF OPERATION FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.68 ACRE, MORE OR LESS” as recommended by Planning & Zoning that Condition D shall be deleted in its entirety.

Motion Adopted: 5 Yeas

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

**M 669 24
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to adjourn at 2:00 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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