

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 20, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 20, 2017, at 12:00 noon, in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Samuel R. Wilson Jr.	Councilman
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 285 17
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the agenda, as posted.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 13, 2017 were approved by consent.

**Corre-
spondence**

Mr. Vincent read a letter from the Greenwood Volunteer Fire Company to Joseph Thomas, County EOC Director, thanking staff members for their willingness to assist the Fire Company with their technical communication needs.

**Public
Comments**

Paul Reiger spoke concerning Board of Adjustment Case No. 11962 considered at the Board's June 19, 2017 meeting.

Dan Kramer commented on freedom of speech.

**Wastewater
Agreement**

Mr. Lawson presented a Wastewater Agreement for the Council's consideration.

**M 286 17
Execute
Wastewater
Agreement/
Silverstock
WP, LLC**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 1027-1, that the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and "Silverstock WP, LLC" for wastewater facilities to be constructed in "Silver Woods Pump Station", located in the Miller Creek Sanitary Sewer District.

**M 286 17
(Con't.)**

Motion Adopted: 5 Yeas.

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

**Legislative
Update**

Mr. Lawson provided a legislative update; legislation discussed was House Bill 89 (Council consensus: support), House Bill 99, House Bill 130 (Council consensus: opposed), House Bill 188, Senate Bill 38, and Senate Bill 99. Copies of the Bills and a legislative update report were provided to Council.

Brief discussion was held regarding the State budget crisis and its possible financial impact to the County. It was noted that if the County would need to amend their budget, the procedure would require a public hearing.

**Adminis-
trator's
Report**

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

1. Sussex County Comprehensive Land Use Plan Workshop

The Sussex County Planning & Zoning Commission will host the next workshop on the Comprehensive Land Use Plan on Monday, June 26, 2017. The workshop will focus on the Conservation Element of the Comp Plan. The workshop begins at 9:00 a.m. and will take place in the County Council Chambers located on The Circle in Georgetown. The agenda is attached, and public comment will be taken at the beginning and end of the meeting.

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

**Comp Plan
Update**

Janelle Cornwell, Director of Planning and Zoning, and Vince Robertson, Assistant County Attorney, provided an update on the Comprehensive Land Use Plan. Included here are the workshops held, as well as the upcoming sessions and Elements addressed:

Previous

**Workshops: March 8 – Vision, Historic Preservation
March 22 – Historic Preservation, Community Design &
Economic Development
March 29 – Future Land Use
April 10 – Utilities, Economic Development, HP & CD Updates
April 21 – Historic Preservation, Community Design & Utilities
May 22 – Transportation
June 5 – Intergovernmental Coordination & CD Update
June 16 – Recreation and Open Space, ED & CD Updates**

Upcoming

**Workshops: June 26 – Conservation
July 14 – TBD**

**Comp Plan
Update
(Con't.)**

July 21 – TBD

July 28 – TBD

After Conservation is addressed on June 26, the only Element remaining would be Housing. Audio/video recordings of the workshops, as well as the Comprehensive Plan Update, are included on the County's website. The Comp Plan Update can also be found at www.sussexplan.com, and includes sections entitled, "About the Plan", "Map & Documents", "Planning Resources", "Plan News" (includes audio/video of the Commission's workshops), and "Public Input".

Lengthy discussion was held regarding communication and the best way for Council to be involved in the process, including possibly presenting each draft Element to Council upon completion. As part of the legal process, a draft ordinance will be introduced and both the Planning and Zoning Commission and County Council will hold separate Public Hearings. Public input has also been encouraged throughout the entire process. It was the consensus of the Council for Mr. Lawson, Mr. Moore and Mr. Robertson to determine the best way to legally proceed during both the Council's Public Hearing and in having input on each draft Element as it is completed by the Commission. Public comments received via the County's website regarding the various Elements will be provided to Council.

**Grant
Requests**

Ms. Jennings presented the following grant requests for the Council's consideration.

**M 287 17
Council-
manic
Grant/
City of
Seaford/
Riverfest**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 (\$750.00 from Mr. Vincent's and \$250.00 from Mr. Arlett's Councilmanic Grant Accounts) to the City of Seaford for their 2017 Nanticoke Riverfest Festival.

Motion Adopted: 5 Yeas.

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

**M 288 17
Council-
manic
Grant/
Town of
Laurel/
Fireworks**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 (\$500.00 each from Mr. Arlett's and Mr. Vincent's Councilmanic Grant Accounts) to the Town of Laurel for their annual Independence Day Fireworks.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Zoning Ordinance **Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY ON A HALF ACRE OF THE 9.8 ACRES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.98 ACRES, MORE OR LESS” (Conditional Use No. 2104) filed on behalf of Grace-N-Mercy Ministries, Inc. (Tax I.D. No. 530-5.00-40.05 (911 Address: Not Available).**

M 289 17 Recess **At 1:14 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 290 17 Reconvene **At 1:30 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to reconvene.**

Motion Adopted: 3 Yeas; 2 Absent.

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

Rules of Procedure **Mr. Moore read the rules of procedure for public hearings.**

**Public Hearing/
C/U 2077
Joy
Marshall
Ortiz** **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 CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.199 ACRES, MORE OR LESS” filed on behalf of Joy Marshall Ortiz (Conditional Use. No. 2077) (Tax I.D. No. 234-28.00-56.04) (911 Address: None Available).**

The Planning and Zoning Commission held a Public Hearing on this application on May 18, 2017, at which time the Commission deferred action. On June 8, 2017, the Commission recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated May 18, 2017 and June 8, 2017).

Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission’s Public Hearing and recommendation of denial.

(Con't.) The Council found that Joy Marshall Ortiz and Ricardo Ortiz were present on behalf of the application.

Ms. Ortiz noted that the property was originally part of a larger family parcel that was subdivided into 4 parcels. The parcel under consideration was originally owned by Ms. Ortiz's mother and is 4.199 acres. Council was given a PowerPoint presentation that included a property history, proposed site plan, site map (existing condition), conceptual site plan proposal, conceptual site plan (3D views), conceptual typical house proposal, conceptual typical house details, and conceptual shared gazebo proposal. It was noted that their proposal was to establish a tiny home campground 'sustainable' community with minimal impact on the environment. Parking would be provided; the homes would be built off-site; and have composting toilets, solar energy, and a grey water collection system. Their current plan is for 12 tiny homes, with one shared property/gazebo; the average home would be 250 square feet; and the total impact on the land would be 3,250 square feet which is less than 2 homes if they were to decide to develop the land. It was noted that both long-term and short-term rentals would most likely occur.

The parcels were originally owned by her mother, aunt and uncle. The front property, owned by her aunt was later sold to nonfamily. A 50-foot ingress/egress easement was dedicated in order to access the 4.199-acre parcel.

With the proposed use of the land having zero impact to the environment, if, at a later time, it was decided not to continue with the tiny home community, the land would be left undisturbed.

Ms. Ortiz stated that under current County zoning and land use, there is no provision for tiny homes and is the reason for the terminology of "campground". Council was provided with the names and locations of tiny home communities located throughout the United States.

Ms. Ortiz acknowledged Planning & Zoning's reasons for denial and stated that their reasons for approval include: it is an architecturally sound design; environmentally sensitive; zoning allows for a conditional use for campgrounds or like private clubs; the purpose of the district is to protect agricultural land; and it does not put demand on public water and sewer. Ms. Ortiz noted that the need exists for the County to address this new housing phenomena.

Ms. Ortiz reported that their current neighbor/owner of the front parcel did, in fact, purchase a lot with a 50-foot wide ingress/egress easement with no restrictions.

Discussion was held regarding minor and major subdivisions and the road standard requirements of each. Mr. Moore noted that the plot indicates that the maintenance of the road shall be the responsibility of the owners of lot 1

(Con't.)

and lot 2 equally. If road improvements would be required as a result of the application, the applicant would only have one-half of the maintenance cost. Ms. Ortiz understands the owner's concern and wants to be good neighbors and is the reason why the attempt was made to reach out to them for discussion; as such, they are agreeable to this being added as a condition for the applicant to take responsibility of the maintenance of the road. Ms. Cornwell noted that the owner of the front parcel did state concern regarding the use of the easement at Planning & Zoning's Public Hearing.

Mr. Ortiz noted they are very willing to work with the County as to what would be a more appropriate number of units. The applicant stated they want to enter into conversation with the County to establish the guidelines as to what makes a tiny home community different than a campground, and how can the application be adjusted to make it work. The applicant does not want to subdivide the parcel; if they decide to remove the tiny homes, the parcel would still be 4 acres; with subdividing, separate lots would remain.

Ms. Cornwell stated that based on the current definition, this project would fall under a manufactured home with the tiny homes having their own chassis, which has a minimum size requirement of 450 square feet, and is the reason for the conditional use for a campground. She also noted that the Planning Commission is addressing alternative housing ideas in the Community Design chapter as part of the Comprehensive Land Use Plan update.

Mr. Moore noted that without doing a title search on the property, there was probably no formal easement filed; the easement was probably done on the plot and is subject to the approval of Planning & Zoning, which basically allowed up to 3 lots without being improved to a higher standard and did not address the issue of what would happen in the future if it was further subdivided; it was intended and approved as 3 individual lots, or 3 individual dwellings. It was not known if this was a deeded easement. In discussion of subdividing the land, various other zoning categories were reviewed with and by the applicant.

Council expressed the following concerns and questions: the parcel was within a residential neighborhood, not commercial; access to the tiny home community would use the 50-foot easement that goes through the front parcel; actual deed restriction; property taxes; originally approved for a one single-family residential dwelling and is now 10+ tiny homes; the burden to the property owner/homeowner whose easement goes across their land; and would the person who originally granted the easement have to agree to now allow the easement to be improved.

Mr. Moore emphasized that the issue is how Planning and Zoning made its approval when this original parcel was split, which was a minor subdivision, and limits the number of units that can be subsequently subdivided.

(Con't.) Council expressed that they liked the concept of the application and the need for such to be addressed by the County's Land Use Plan.

Mr. Moore reported that information contained in the material presented to Council displays a plot by Miller Lewis, dated May 16, 2012, which shows the subdivision and that it was approved by Planning and Zoning as a minor subdivision at that time, which limits the number of units; it allowed the separate deeds for it to be split. With approval of the application, it could possibly require the need for the road to be improved to higher standards due to increased traffic, and would become a Planning & Zoning issue due to County Code.

There were no public comments in favor or in opposition of this application.

The Public Hearing and public record were closed.

M 291 17
Adopt
Proposed
Ordinance/
C/U 2077
Joy
Ortiz
(DENIED)

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.199 ACRES, MORE OR LESS" (Conditional Use No. 2077) filed on behalf of Joy Marshall Ortiz.

Motion Denied: 5 Nays.

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

Public
Hearing/
C/U 2078
Sunlight
Ventures

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 PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.974 ACRE, MORE OR LESS" filed on behalf of Sunlight Ventures, Ltd. (Conditional Use No. 2078) (Tax I.D. No. 334-4.00-84.00) (911 Address: 29003 Lewes-Georgetown Highway, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on May 18, 2017, at which time the Commission deferred action. On June 8, 2017, the Commission recommended that the application be approved with the following conditions:

- a. There will only be one un-lighted sign on the premises that shall not exceed 32 square feet on each side.
- b. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.

(Con't.)

- c. As proposed by the applicant, the hours of operation shall be limited to between 8:00 a.m. and 5:00 p.m., Monday thru Saturday.
- d. This approval is limited to the office proposed during the public hearing. The Sussex County Planning and Zoning Commission shall consider whether any future proposed expansion shall require a new public hearing.
- e. The structure on the site shall maintain a residential character and appearance.
- f. The use shall be limited to professional office uses such as the architecture office proposed by the applicant. There shall not be any contractor's offices or uses that primarily involve retail sales.
- g. The applicant must comply with all DelDOT requirements concerning the entrance and roadway improvements.
- h. The Final Site Plan shall include a landscape plan for the property.
- i. The Site Plan shall be subject to approval of the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated May 18, 2017 and June 8, 2017).

Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission's Public Hearing and recommendation of approval.

The Council found that Freddy Bada and Robert Rollins with Moonlight Architecture, were present on behalf of the application.

Mr. Bada noted that they had originally purchased the lot to build a home to sell, but after completion decided to use it as an office for the architecture firm. He reviewed the area and noted: other businesses are in close proximity to the property; the area was a good location for their office; with having only 2 or 3 meetings a week in the office, they do not generate a lot of traffic; and adequate parking will be available.

The 9 conditions were reviewed with the applicant. Concern was expressed by the applicant that their hours of operation are 7:30 a.m. to 5:30 p.m. Monday thru Thursday, half-day on Fridays, and with occasional afterhours required; the applicant was also agreeable to a smaller sign.

There were no public comments in favor or in opposition of this application.

The Public Hearing and public record were closed.

M 292 17
Strike
Condition
"c."

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to strike condition "c." for C/U 2078 regarding the hours of operation.

Motion Adopted: 5 Yeas.

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

**M 293 17
Amend
Condition
“a.”**

A Motion was made Mr. Arlett, seconded by Mr. Cole, to amend condition “a.” for C/U 2078 to read, “There will only be one lighted sign on the premises that shall not exceed 16 square feet on each side”.

Motion Adopted: 5 Yeas.

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

**M 294 17
Adopt Ord.
No. 2505/
C/U 2078
Sunlight
Ventures**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2505 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.974 ACRE, MORE OR LESS” (Conditional Use No. 2078) filed on behalf of Sunlight Ventures, Ltd., with the following conditions as amended:

- a. There will only be one lighted sign on the premises that shall not exceed 16 square feet on each side.**
- b. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.**
- c. This approval is limited to the office proposed during the public hearing. The Sussex County Planning and Zoning Commission shall consider whether any future proposed expansion shall require a new public hearing.**
- d. The structure on the site shall maintain a residential character and appearance.**
- e. The use shall be limited to professional office uses such as the architecture office proposed by the applicant. There shall not be any contractor’s offices or uses that primarily involve retail sales.**
- f. The applicant must comply with all DelDOT requirements concerning the entrance and roadway improvements.**
- g. The Final Site Plan shall include a landscape plan for the property.**
- h. The Site Plan shall be subject to approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/Z 1820**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT

**W&B
Hudson
Family &
John Floyd
Lingo III**

AND AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.16928 ACRES, MORE OR LESS” (Change of Zone No. 1820) filed on behalf of W&B Hudson Family LP & John Floyd Lingo III (Tax I.D. No. 235-30.00-69.00, 235-30.00-70.00/portion of) (911 Address: None Available).

Although having no vote, Mr. Moore wanted to note that he had represented W&B Hudson Family in the past. Mr. Cole excused himself from the public hearing due to a potential conflict of interest.

The Planning and Zoning Commission held a Public Hearing on this application on May 18, 2017, at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated May 18, 2017).

Janelle Cornwell, Director of Planning and Zoning, provided a summary of the Commission’s Public Hearing and recommendation of approval.

The Council found that William Scott, attorney with Scott and Shuman, P.A., Michael Riemann, P.E. with Becker Morgan Group, and Randall Bendler were present on behalf of the application.

Mr. Scott noted that there are two applications before Council. The first parcel is to rezone a small portion from C-1 to CR-1 and to rezone the second parcel from AR-1 to CR-1. The size of the two properties total 1.16928 acres. The property is located on a section of Route 9 where there are various other commercial uses. The application would bring all of the property under a single zoning designation.

Mr. Scott noted that Council had been given Booklets that contained a number of exhibits, of which an overview was presented. During the presentation it was reported: their service level of request had been submitted to DelDOT and given the current use of the property as a convenience/retail/gas station, the level of trips which would be generated if this were developed as a Royal Farms, would not significantly increase to trigger a Traffic Impact Study; DelDOT upgrades have been designed for the intersection and could start as early as the fall; currently the site is served by well and septic, and an ability to serve letter is provided from Artesian for water and sewer; and it is not anticipated that the Royal Farms would have a truck diesel fueling island.

Mr. Bendler concurred that the testimony given and documentation submitted to County Council were true and correct.

There were no public comments in favor or in opposition of this application.

(Con't.) The Public Hearing and public record were closed.

**M 295 17 A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt
Adopt Ordinance No. 2506 entitled, "AN ORDINANCE TO AMEND THE
Ordinance COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1
No. 2506/ GENERAL COMMERCIAL DISTRICT AND AR-1 AGRICULTURAL
C/Z 1820 RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL
W&B DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN
Hudson BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.16928
 ACRES, MORE OR LESS" (Change of Zone No. 1820) filed on behalf of
 W&B Hudson Family LP & John Floyd Lingo III.**

Motion Adopted: 4 Yeas; 1 Absent

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

**M 296 17 At 3:03 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to
Adjourn**

Motion Adopted: 4 Yeas; 1 Absent

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

Respectfully submitted,

**Nancy J. Cordrey
Assistant Clerk of the Council**

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