



Sussex County Council Public/Media Packet

**MEETING:
January 2, 2018**

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**Sussex County Council
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MICHAEL H. VINCENT, PRESIDENT
GEORGE B. COLE, VICE PRESIDENT
ROBERT B. ARLETT
IRWIN G. BURTON III
SAMUEL R. WILSON JR.



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ROBIN GRIFFITH
CLERK

Sussex County Council

AGENDA

JANUARY 2, 2018

10:00 A.M.

Call to Order

Approval of Agenda

Election of Council Officers

Council Member Appointments

Appointment of Legal Counsel

Adoption of Rules of Procedure

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Wastewater Agreement No. 990-2
Sussex County Project No. 81-04
Ocean View Beach Club – Amenities Sewer
Bethany Beach Sanitary Sewer District
2. Personnel Board Appointment
3. Administrator's Report

Gina Jennings, Finance Director

1. Bank Account Resolutions



2. Grant Requests

- A. Delaware Seaside Railroad Club for workshop expenses**
- B. Ocean View Historical Society for construction of Hall’s Store Visitor and Education Center**

10:15 a.m. Public Hearing

“AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW “B-2 BUSINESS COMMUNITY” DISTRICT; “B-3 BUSINESS RESEARCH” DISTRICT; “C-2 MEDIUM COMMERCIAL” DISTRICT; “C-3 HEAVY COMMERCIAL” DISTRICT; “C-4, PLANNED COMMERCIAL” DISTRICT; “C-5, SERVICE/LIMITED MANUFACTURING” DISTRICT, AND “I-1, INSTITUTIONAL” DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND “115 ATTACHMENT 3, SUSSEX COUNTY TABLE III”; TO CREATE “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”

10:45 a.m. Public Hearing

“AN ORDINANCE TO ADD A NEW CHAPTER 117 TO SUSSEX COUNTY CODE ENTITLED “LABOR UNIONS” TO PROHIBIT CERTAIN UNION MATTERS IN PRIVATE SECTOR EMPLOYMENT, INCLUDING PROHIBITION OF MANDATORY UNION MEMBERSHIP AND PAYMENT OF UNION DUES OR FEES AS CONDITION OF EMPLOYMENT; INVOLUNTARY UNION PAY DEDUCTIONS; AND ACTS OF COERCION RELATED TO UNION SUPPORT OR MEMBERSHIP”

Recess Break - 12:00 Noon to 1:00 p.m.

Council Members' Comments

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountypa.gov.

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on December 22, 2017 at 11:00 a.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 5, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 5, 2017 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	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	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 615 17
Amend
and
Approve
Agenda**

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

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 November 28, 2017 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

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

**NANTICOKE SENIOR CENTER, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.**

**NANTICOKE RIVER ARTS COUNCIL, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.**

**Route 113
Corridor
Presentation**

DelDOT Secretary Jennifer Cohan presented an update on the Route 113 Corridor Improvement Plan, a program that has been relaunched. The Secretary, along with Mark Whiteside, P.E., Project Manager for DelDOT,

**Route 113
Corridor
Presentation
(continued)**

presented the Strategic Implementation Plan for the recommendations of the US 113 North/South Study showing the seventeen locations, as prioritized, and the preferred alternatives for Grade Separated Intersections (GSIs). The Secretary stated that DelDOT is committed to the \$500 million for the Corridor Improvement Project, which will take approximately 20 years from design to construction.

Secretary Cohan reported that DelDOT applied for a Tiger Grant for the Sand Hill Road intersection area and that a response should be received from the federal government in the Spring of 2018.

**Public
Comments**

Public Comments

Dan Kramer commented on the Comprehensive Plan workshops that are ongoing and he questioned how the proposed new plan can be compared to the old plan when there is no underlining or brackets.

Betty R. Breen was present representing the Sussex County League of Women Voters. She reported on the League's Observer Corps' observations and recommendations.

D. J. Hughes commented on (1) DelDOT's lack of adequate funding for road improvements in Sussex County and (2) the Proposed Sussex Sports Center.

**Sussex
Sports
Center
Foundation
Proposal**

Mr. Lawson presented for discussion and consideration the Sussex Sports Center Foundation proposal which was first presented to Council on September 26th. Mr. Lawson reported on the proposed timeline and the proposal terms. He noted that, what is proposed on this date is for Council to discuss the proposal and consider a preliminary decision on the proposal.

Proposal terms include the following:

- Property donated to the Sports Center Foundation. Deed recorded in Foundation's name.
- Foundation to construct Sports Center to include 8 grass fields, 3.1 miles of walking/running trail, 8 pickle ball courts, ancillary facilities, including bathrooms
- Property located in the Town of Georgetown
- County has the option to take over the property and facility after year 5 and each year thereafter
- Public-Private Partnership
- Approximately 60% private funding and 40% public funding
- Estimated \$4.0 million construction cost
- \$2.5 million private funds to be raised; \$1.5 million County loan
 - Foundation raises and spends \$1.5 million first
 - County funds made available after; County processes payments after invoices received (\$100,000 increments)

**Sussex
Sports
Center
Foundation
Proposal
(continued)**

- **\$1.5 million County Loan**
 - **40 years @ 0% interest; \$37,500/ year payments; no payments first 5 years**
 - **Loan payments only on years when there are no losses and the contingency fund is at \$400,000. Term of loan extended each year a payment is not received.**
 - **County places a lien on the property. Loan forgiven if County buys Center (\$1)**
 - **Annual financial audits required**
- **Foundation Board responsible for the operations of the facility**
- **County to have two positions on the Board**
- **After year 5, County has option to take over the facility for \$1 and loan forgiven**
- **County to have two positions on the Board**
- **Each subsequent year the County can exercise its option**
- **Formal contract to be drafted, presented and approved by Council**

Mr. Lawson advised that if Council agrees to continue forward with a Memorandum of Understanding, a contract would be drawn up for the Council's consideration.

The Council discussed the proposal and financial terms.

**M 616 17
Draft MOU/
Sussex
Sports
Center
Foundation**

A Motion was made by Mr. Cole, seconded by Mr. Burton, that the Sussex County Council authorizes the County Administrator to draft a Memorandum of Understanding with the Sussex Sports Center Foundation for the purposes of the design and construction of a sports facility as described in the presentation on this date; including the County's commitment of \$1.5 million, in the form of a loan, with the terms as described in the presentation on this date, to the Sussex Sports Center Foundation for the same purposes.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Rules of
Procedure**

Mr. Lawson referenced the Rules of Procedure of the County Council and he noted that the Rules are reviewed and considered for approval at the beginning of each year. Mr. Lawson discussed the possibility of two changes and he noted that the proposed changes will be reviewed by Legal Council for consideration at the January 2, 2018 meeting. Mr. Lawson and Mr. Moore discussed Rule 10 – Ordinances and Rule 16.A – Appointments to the Planning & Zoning Commission and the Board of Adjustment.

**Adminis-
trator's
Report**

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

1. Caroling on The Circle

The Sussex County Council would like to thank the community for participating in the 34th annual Caroling on The Circle on Monday, December 4th. We had a very successful night with hundreds of carolers and thus far have collected nearly 24,000 canned goods and nonperishable food items for our less fortunate neighbors.

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

2. Sussex County Comprehensive Land Use Plan Workshop

The Sussex County Council will begin its deliberation on the Comprehensive Land Use Plan beginning tomorrow, Wednesday, December 6, 2017, at 10:00 a.m. in Council Chambers. A copy of the agenda is attached.

3. Additional Council Meeting – January 16, 2018

The Sussex County Council will schedule an additional meeting on Tuesday, January 16, 2018. Originally, the Council was scheduled to be off that date. However, due to the power failure last week, Council needs to reschedule the hearing for the Proposed Ordinance related to Special Events. January 16th is the first available date. It is anticipated that the public hearing for the proposed ordinance will be scheduled in the morning of the 16th.

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

**Economic
Develop-
ment Loan
Fund
Presentation**

William Pfaff, Economic Development Director, and Gina Jennings, Finance Director, presented the ExciteSussex Loan Program. Mrs. Jennings first discussed the history of the County's current loan program which has not been successful; as of June 30, 2017, the available balance in the program was \$752,621. Mr. Pfaff reported that the proposed loan program will be a partnership with Discover Bank and The National Development Council (NDC), to provide below market interest rates and long term loans to help companies grow their businesses in Sussex County. Loans can range from \$250,000 to \$1,000,000; depending on the use of the loan, payment and terms can range from 10 years to 25 years. It was noted that, through the partnership with Discover Bank, the County's program will grow the fund from \$750,000 to \$4,000,000; if others join, the fund will grow larger. Mr. Pfaff reviewed the formula for the funding of the

Economic Development Loan Fund Presentation (continued)

program; the eligibility requirements for the proposed loan program; and loan program process. Mr. Pfaff noted that the goal is the creation and retention of permanent full-time jobs. He also explained that three zones have been created: the Nanticoke Zone which will be Phase 1, the Broadkill Zone (Phase 2), and the Indian River Zone (Phase 3), with the goal of driving economic development to the western side of the County and then moving east.

M 617 17 Approve Agreement with National Development Fund

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council enter into an Agreement with National Development Fund through the Grow America Fund to partner with banks such as Discover Bank to create a Sussex County Loan Fund with a minimum total of a \$4 million value by Sussex County contributing \$750,000 from its previous loan and grant program.

Motion Adopted: 4 Yeas, 1 Nay.

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

Ecological Extinction Task Force Update

Michael Costello, Government Affairs Manager, provided an update on the Ecological Extinction Task Force which was authorized by Senate Concurrent Resolution No. 20 to study the extinction of plant and animal species in Delaware, identify the contributing factors of the problem locally and make recommendations that would bring beneficial changes to the species of most concern. Mr. Costello reported that following the meetings of the task force, the information provided all led to habitat and the information provided the framework that was used to develop the seven detailed sections identified as the Task Force Findings. Mr. Costello reviewed the findings relating to education, incentivize private landowners, government leads by example, legislation affecting development, funding open space program at statutory level, legislation to prohibit the sale of invasive species, and deer management. Mr. Costello stated that these recommendations are available in the full report which is available at the Delaware General Assembly's website at <http://legis.delaware.gov/>.

Goslee Creek Project

Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for the Goslee Creek Regional Pump Station, Force Main & Gravity Sewer, Project 15-09. Mr. Medlarz reported on the reduced project scope and the savings realized.

M 618 17 Approve C/O and Grant Substantial Completion/ Contract 15-09

A Motion was made by Mr. Wilson, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract 15-09, Goslee Creek Regional Pump Station, Force Main & Gravity Interceptor, be approved which decreases the contract amount by \$632,017.59 for a new total of \$3,462,807.41 and that Substantial Completion be granted effective June 2, 2017 and any held retainage be released in accordance with the contract documents.

**M 618 17
(continued)**

Motion Adopted: 5 Yeas.

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

**Western
Sussex
Unified
District**

Hans Medlarz, County Engineer, presented three items under the Western Sussex Unified District.

**M 619 17
Approve
Base
EJCDC
Agreement**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Base EJCDC Agreement with George Miles & Buhr be approved for Miscellaneous Engineering Services.

Motion Adopted: 5 Yeas.

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

**M 620 17
Approve
Contract
Amendment
for Trans-
mission
Facilities/
Western
Sussex
Unified
District**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Amendment No. 1 to the Base Engineering Contract for Miscellaneous Engineering Services with George Miles & Buhr, LLC be approved in the amount not to exceed \$1,302,178.00 for transmission facilities for the Western Sussex Unified District.

Motion Adopted: 5 Yeas.

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

**M 621 17
Approve
Second
EJCDC
Contract
Amendment**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that a second EJCDC Contract Amendment with Davis Bowen & Friedel be approved in an amount not to exceed \$266,000.00 for transmission facilities for the Western Sussex Unified District – Bridgeville Portion.

Motion Adopted: 5 Yeas.

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

**Carillon
Woods/
Agreement**

John Ashman, Director of Utility Planning, presented a Proposed Use of Existing Infrastructure Agreement between Sussex County and Carillon Woods, LLC. Under this arrangement, Carillon Woods development will construct an onsite pump station and gravity collection system that will

Carillon Woods/ Agreement (continued)

connect to existing regional infrastructure. In return for utilization of said infrastructure, Carillon Woods, LLC will contribute \$31,780.00 for the perpetual use of these transmission facilities to serve 209 Equivalent Dwelling Units.

M 622 17 Approve Use of Existing Infrastructure Agreement/ Carillon Woods

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the use of Existing Infrastructure Agreement between Sussex County and Carillon Woods, LLC for capacity allocation and the regional transmission system, as presented.

Motion Adopted: 5 Yeas.

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

Old Business/ CU 2099

The Council considered Conditional Use No. 2099 filed on behalf of Richard and Dawn Jamison.

The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2017 at which time the Commission deferred action. On September 28, 2017, the Commission recommended approval for the following reasons and with the following conditions:

1. The site is a 49.12 acre parcel of land owned by the applicants. The applicants intend to use a 1930s barn for the wedding events. This is an appropriate location for a wedding venue.
2. The use is an innovative re-use of the large historic barn on the property, and it promotes Sussex County's agricultural heritage.
3. The use will be limited in scope, and will not require any significant additional permanent structures on the property.
4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
5. The parking area proposed by the Applicant is approximately 24,000 acres in size, which is adequate for this use.
6. The Applicants will reside on the property and maintain close control over the use and the site at all times.
 - A. All events shall no later than 10:00 p.m.
 - B. Food and beverage service and music or similar entertainment is permitted.
 - C. No noise from the use shall be audible from the State Road right-of-way.
 - D. Portable toilet facilities may be permitted during any event as needed.
 - E. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - F. The interior drive and parking area shall contain sufficient space

**Old
Business/
CU 2099
(continued)**

- for vehicles and shuttle buses to turn around completely on the site.**
- G. All entrance locations shall be subject to the review and approval of DelDOT.**
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

The County Council held a Public Hearing on this application on October 3, 2017 at which time action was deferred.

The Council discussed the application for a “wedding venue within an existing barn” and whether or not receptions are permitted as part of the wedding venue application, and whether or not the Applicant can have parties in the barn, such as anniversary and birthday parties. Mr. Moore stated that receptions would be permitted as part of the “wedding venue”; however, anniversary and birthday parties would not be permitted as they were not included in the title of the ordinance (per the application).

Mr. Moore reviewed several proposed changes to the Planning and Zoning Commission’s recommended reasons and conditions for the Council to consider, as follows:

Reason No. 1 – after the word “wedding” and before the word “venue”, add the words “and reception”

Reason No. 5 – 24,000 “square feet”, not “acres”

Reason/Condition 6A – after the word shall, add the word “end”

Delete Reason/Condition #6C relating to noise (the County does not have a noise ordinance; the State of Delaware DNREC is the enforcement agency)

**M 623 17
Modify
Reason for
Approval/
CU 2099**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to modify the Planning and Zoning Commission’s Reason No. 1 to read as follows: “The site is a 49.12 acre parcel of land owned by the applicants. The applicants intend to use a 1930s barn for the wedding events. This is an appropriate location for a wedding and reception venue.”

Motion Adopted: 5 Yeas.

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

**M 624 17
Amend
Reason for
Approval/
CU 2099**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend the Planning and Zoning Commission’s Reason No. 5 to read as follows “The parking area proposed by the Applicant is approximately 24,000 square feet in size, which is adequate for this use.”

Motion Adopted: 5 Yeas.

**M 624 17
(continued)**

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

**M 625 17
Amend
Condition/
CU 2099**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend the Planning and Zoning Commission's Condition No. 6A to read as follows: "All events shall end no later than 10:00 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 626 17
Delete
Condition/
CU 2099**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to delete Condition "6C" and to renumber the conditions.

Motion Adopted: 5 Yeas.

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

**M 627 17
Adopt
Ordinance
No. 2536/
CU 2099**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2536 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WEDDING VENUE WITHIN AN EXISTING BARN ON APPROXIMATELY 2 ACRES AROUND THE BARN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 49.12 ACRES, MORE OR LESS" (Conditional Use No. 2099) filed on behalf of Richard and Dawn Jamison, for the following reasons and with the following conditions, as amended:

- 1. The site is a 49.12 acre parcel of land owned by the applicants. The applicants intend to use a 1930s barn for the wedding events. This is an appropriate location for a wedding and reception venue.**
- 2. The use is an innovative re-use of the large historic barn on the property, and it promotes Sussex County's agricultural heritage.**
- 3. The use will be limited in scope, and will not require any significant additional permanent structures on the property.**
- 4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.**
- 5. The parking area proposed by the Applicant is approximately 24,000 square feet in size, which is adequate for this use.**
- 6. The Applicants will reside on the property and maintain close control over the use and the site at all times.**
 - A. All events shall end no later than 10:00 p.m.**

**M 627 17
Adopt
Ordinance
No. 2536/
CU 2099
(continued)**

- B. Food and beverage service and music or similar entertainment is permitted.**
- C. Portable toilet facilities may be permitted during any event as needed.**
- D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.**
- E. The interior drive and parking area shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
- F. All entrance locations shall be subject to the review and approval of DelDOT.**
- G. 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 Nay.

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

**Old
Business/
CU 2104**

The Council considered Conditional Use No. 2104 filed on behalf of Grace-N-Mercy Ministries, Inc.

The Planning and Zoning Commission held a Public Hearing on August 24, 2017 at which time action was deferred; on September 14, 2017, the Commission recommended that the application be denied due to the lack of a record.

The County Council held a Public Hearing on October 3, 2017 at which time action was deferred.

**M 628 17
Adopt
Ordinance
No. 2537/
CU 2104**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to Adopt Ordinance No. 2537 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 Grace-N-Mercy Ministries, Inc., for the following reasons and with the following conditions:

- A. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that Mr. Brian Tinley was present on behalf of the application at the Planning & Zoning Commission hearing and Joyce L. Mizzelle, Pastor of the Applicant, was present on behalf of the application at the Sussex County Council hearing; that Applicant owns the property where the cemetery will be located and intends to construct a church on the property; that the cemetery is intended for members of the church; that the cemetery plots would be for sale to the members of the church; that**

**M 628 17
Adopt
Ordinance
No. 2537/
CU 2104
(continued)**

there will be an access road back to the cemetery site which will be located on a half-acre at the rear corner of the parcel away from Route 113 and Woodyard Road and away from adjacent residences; that the church has created a cemetery fund for maintenance purposes; that the cemetery shall be maintained and kept neat in appearance; and that the area will be fenced to help block the view from any neighboring residences.

- B. Council also found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community; and that the proposed use promotes the health, safety, welfare and general convenience of Sussex County and its residents.**
- C. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to the following conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties:**
 - a. The cemetery shall be limited to a half-acre portion of the entire parcel located at the rear corner of the parcel away from Route 113 and Woodyard Road.**
 - b. The use will not encroach on the setback of the soil conservation tax ditch which shall be shown on the Final Site Plan.**
 - c. The half-acre portion of the parcel designated for the cemetery shall be surrounded by a fence.**
 - d. No lighted signs shall be permitted on the property.**
 - e. Any security lighting shall be limited to security lighting that is customary in residential areas and shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - f. The Applicant shall comply with all DelDOT requirements regarding entrances to the property.**
 - g. The Applicant shall comply with all requirements of other state agencies when establishing and maintaining the cemetery. The Applicant shall establish a method for permanently maintaining the cemetery grounds.**
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County 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**

**Old
Business/
CU 2105**

The Council considered Conditional Use No. 2105 filed on behalf of Thomas Engel.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended that the application be approved with the following conditions:

**Old
Business/
CU 2105
(continued)**

- A. The use shall be limited to a landscaping business with vehicle and equipment storage. No other businesses shall be conducted on the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.**
- B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.**
- C. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- D. As stated by the Applicant, no sign shall be permitted.**
- E. The hours of operation shall be limited to 6:30 a.m. through 5:00 p.m., Monday through Saturday.**
- F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- H. No trucks with more than two axles shall be permitted on the site for any use. This includes business vehicles, employee vehicles, and deliveries.**
- I. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- J. As stated by the Applicant, there shall be no dumping on the site, and the single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.**
- K. No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- L. All equipment and vehicle maintenance and repair shall occur indoors.**
- M. Visual screening in the form of fencing or landscaping shall be installed in any place where the roadway providing access to the conditional use area is within 20 feet of a neighboring property. These areas, along with the method of screening, shall be shown on the Final Site Plan.**
- N. This Conditional Use is not permitted on the entire 25-acre parcel. It shall be limited to the cleared area immediately adjacent to the existing pole buildings and the roadway providing access to this area. The Final Site Plan shall contain boundaries clearly depicting the Conditional Use area for the review and approval of the Commission.**
- O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Old Business/
CU 2105
(continued)** **The County Council held a Public Hearing on this application on November 28, 2017 at which time action was deferred.**

Mr. Burton recommended adding additional conditions and he presented his recommendations and reasons for them.

**M 629 17
Amend
Recommended
Conditions/
CU 2105** **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to add a new Condition P, as follows: “The Applicant shall be prohibited from widening the road leading to the back portion of the site. The Applicant shall only be permitted to widen the road toward the interior of the property.”**

Motion Adopted: 5 Yeas.

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

**M 630 17
Amend
Recommended
Conditions/
CU 2105** **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to add Condition Q, as follows: “The forested buffer shall not be altered. Clearcutting and thinning of the forested buffer shall be strictly prohibited.”**

Motion Adopted: 5 Yeas.

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

**M 631 17
Amend
Recommended
Conditions/
CU 2105** **A Motion was made by Mr. Burton, seconded by Mr. Arlett, to add Condition R, as follows: “This Conditional Use is limited in geographical scope and applies only to the back portion of the property as identified by Applicant comprising of that cleared area of ground adjacent to and surrounding the buildings. No additional trees are to be cut. The portion of the property subject to the Conditional Use shall be depicted on the Final Site Plan.”**

Motion Adopted: 3 Yeas, 2 Nays.

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

**M 632 17
Amend
Recommended
Conditions/
CU 2105** **A Motion was made by Mr. Burton, seconded by Mr. Arlett, to modify Condition K, as follows: “No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. There shall be no more than 12 vehicles on the site at any time. A truck and trailer shall be counted as two vehicles. A trailer with a skid loader on it**

**M 632 17
(continued)**

shall be counted as one vehicle. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks."

Motion Adopted: 5 Yeas.

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

**Renumber
Condition**

Mr. Moore noted that Condition P recommended by the Planning and Zoning Commission will need to be renumbered as Condition S.

**M 633 17
Adopt
Ordinance
No. 2538/
CU 2105**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to Adopt Ordinance No. 2538 entitled AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS" (Conditional Use No. 2105) filed on behalf of Thomas R. Engel, with the following conditions, as amended, including the renumbering of the conditions, as follows:

- A. The use shall be limited to a landscaping business with vehicle and equipment storage. No other businesses shall be conducted on the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.
- B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.
- C. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
- D. As stated by the Applicant, no sign shall be permitted.
- E. The hours of operation shall be limited to 6:30 a.m. through 5:00 p.m., Monday through Saturday.
- F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
- H. No trucks with more than two axles shall be permitted on the site for any use. This includes business vehicles, employee vehicles, and deliveries.
- I. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall

**M 633 17
(continued)**

include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.

- J. As stated by the Applicant, there shall be no dumping on the site, and the single dumpster permitted on the site shall be screened from the view of neighboring properties and roadways.**
- K. No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. There shall be no more than 12 vehicles on the site at any time. A truck and trailer shall be counted as two vehicles. A trailer with a skid loader on it shall be counted as one vehicle. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- L. All equipment and vehicle maintenance and repair shall occur indoors.**
- M. Visual screening in the form of fencing or landscaping shall be installed in any place where the roadway providing access to the conditional use area is within 20 feet of a neighboring property. These areas, along with the method of screening, shall be shown on the Final Site Plan.**
- N. This Conditional Use is not permitted on the entire 25-acre parcel. It shall be limited to the cleared area immediately adjacent to the existing pole buildings and the roadway providing access to this area. The Final Site Plan shall contain boundaries clearly depicting the Conditional Use area for the review and approval of the Commission.**
- O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- P. The Applicant shall be prohibited from widening the road leading to the back portion of the site. The Applicant shall only be permitted to widen the road toward the interior of the property.**
- Q. The forested buffer shall not be altered. Clearcutting and thinning of the forested buffer shall be strictly prohibited.**
- R. This Conditional Use is limited in geographical scope and applies only to the back portion of the property as identified by Applicant comprising of that cleared area of ground adjacent to and surrounding the buildings. No additional trees are to be cut. The portion of the property subject to the Conditional Use shall be depicted on the Final Site Plan.**
- S. 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 Nay.

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

**Old
Business/
CZ 1831**

The Council considered Change of Zone No. 1831 filed on behalf of East Gate Farm.

**Old
Business/
CZ 1831
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended approval.

The County Council held a Public Hearing on this application on November 28, 2017, at which time action was deferred.

Mr. Burton stated that he would like to defer action for further consideration.

**M 634 17
Defer
Action/
CZ 1831**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to defer action on Change of Zone No. 1831.

Motion Adopted: 5 Yeas.

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

**Council
Members'
Comments**

Council Members' Comments

Mr. Arlett commented on the upcoming Army-Navy game – “Go Navy!”

Mr. Arlett congratulated the Delmar High School Field Hockey Team and the Delmar High School Football Team upon winning State Championships.

**M 635 17
Recess**

At 12:28 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 636 17
Reconvene**

At 1:36 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene.

Motion Adopted: 5 Yeas.

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

Rules

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

**Public
Hearing**

A Public Hearing was held on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL

**Public
Hearing/
CZ 1832
and
CU 2106
(continued)**

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 6.86 ACRES, MORE OR LESS” (Change of Zone No. 1832) filed on behalf of MDI Investment Group, LLC and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (52 TOWNHOMES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS” (Conditional Use No. 2106) filed on behalf of MDI Investment Group, LLC (Tax I.D. No. 334-6.00-511.00 and 334-6.00-512.00) (911 Address: Not Available).

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

The Planning and Zoning Commission held a Public Hearing on both applications on November 16, 2017 at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated November 16, 2017.)

Ms. Cornwell reported that six additional letters were received in opposition to the application.

An Exhibit Book was previously provided to Council members.

Mr. Moore announced that the two applications would be considered in a combined public hearing.

The Council found that Hal Dukes, Attorney, was present on behalf of prospective purchaser of this tract of land with Doug Compher of MDI Investment Group, LLC, and John Murray of The Kercher Group. They discussed the proposed project - a 52 unit multi-family dwelling project, the layout of the site and the site plan, the surrounding land uses including high density developments and medical offices, the property’s proximity to the Lewes Wellness Center and other multi-family residential developments, sidewalks, open space (60%), soils, the availability of infrastructure and transit services, soils, and stormwater management. They stated that the units are to be moderately priced; that the project will be in character with the area; that a transportation hub is located across the street from the site; that the entrance-way will be moved away from the medical center, which is close to the intersection, and it will become a common entrance; that the entrance will be off of Shady Road; that no amenities are planned; that the density would be 7.58 units per acre; that the adjacent development was approved for a density of 9.29 units per acre; that the project went through the PLUS process and was identified as a Level 1 Investment Area, an area designated for this type of use; and that the County’s Comprehensive Plan Future Land Use Map identifies this parcel as being located within the Environmentally Sensitive Developing Area and partially within the Mixed

**Public Hearing/
CZ 1832
and
CU 2106
(continued)**

Residential and the Highway Commercial Areas. They also discussed transportation matters including no requirement for a Traffic Impact Study; a request for a Letter of No Objection from DelDOT; and DelDOT's required improvements. It was noted that a Traffic Impact Study was not required. They stated that this application proposes the closure of the entrance for Lewes Wellness Center and this project's entrance will provide a perpetual cross access easement for ingress and egress to the Center.

Public comments were heard.

There were no public comments in support of the application.

Steven Smith, Diana O'Hagan, Ray Grabiak, Fred Strobel, William Lockman, Pat Campbell-White, and Claire Grabiak spoke in opposition to the application referencing traffic, the proposed entrance, high density, lack of buffers, berms and fencing, drainage and sewer concerns, public safety access concerns, pedestrian safety, closeness of the buildings, inadequate storm management, and fire hazards. They stated that the proposed project is out of character with the area.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 637 17
Defer
Action on
CZ 1832**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1832 filed on behalf of MDI Investment Group, LLC

Motion Adopted: 5 Yeas.

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

**M 638 17
Defer
Action on
CU 2106**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2106 filed on behalf of MDI Investment Group, LLC

Motion Adopted: 5 Yeas.

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

**M 639 17
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at 3:09 p.m.

Motion Adopted: 5 Yeas.

**M 639 17
(continued)**

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

DRAFT

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 12, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 12, 2017, 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	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 640 17
Amend
and
Approve
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the agenda by deleting "Approval of Minutes", "Executive Session – Pending/Potential Litigation" and "Possible Action on Executive Session Items", and to approve the agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

BETHEL HELPING HANDS FOOD BANK, FRANKFORD, DELAWARE
RE: Card in appreciation of the food items donated to the food bank from the Caroling on The Circle food drive.

DELAWARE GUIDANCE SERVICES, WILMINGTON, DELAWARE
RE: Thank you in appreciation of their Human Service Grant.

LOVE, INC., SEAFORD, DELAWARE
RE: Thank you in appreciation of their Human Service Grant.

**Public
Comments**

Dan Kramer commented on Council's December 6, 2017 Comprehensive Land Use Plan Workshop.

Hack Jones and Chris Pollinger spoke in regard to the Heron Bay Community and the Memorandum of Understanding between the builder and the County.

(Con't.) Eric Masten commented on 'Right to Work' and his opposition.

Recognition of the Delmar High School Field Hockey Team and Delmar High School Football Team

Mr. Lawson reported that members and coaches of the Delmar High School Field Hockey Team and the Delmar High School Football Team were in attendance.

Council presented the Field Hockey team with a Proclamation recognizing their winning the 2017 Delaware Interscholastic Athletic Association Division II State Championship. Delmar won their title as Division II champions in November defeating Tower Hill 3-2 and ended their season with an impressive 18-0 record. A group photo was taken with Councilman Arlett.

Council presented the Football team with a Proclamation recognizing their winning the 2017 Delaware Interscholastic Athletic Association Division II State Championship. Delmar won their title as Division II champions in December defeating Milford 14-7 and ended their season with an impressive 12-1 record. A group photo was taken with Councilman Arlett.

Councilman Arlett exited the meeting.

Wastewater Agreement

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

M 641 17 Execute Wastewater Agreement/ Breakwater Beach, LLC

A Motion was made by Mr. Cole, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 53-1 that the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and "Breakwater Beach, LLC" for wastewater facilities to be constructed in "Breakwater Beach (Parcels 421-428)", located in Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yeas; 1 Absent.

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

Administrator's Report

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

1. Sussex County Comprehensive Land Use Plan Workshop

The next Sussex County Council Comprehensive Land Use Plan Workshop will be held on Wednesday, December 13, at 10:00 a.m. in Council Chambers. A copy of the agenda is attached.

2. Projects Receiving Substantial Completion

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

(Con't.) Phase 6 (Construction Record), effective December 6; Coastal Station (aka Corrado), effective December 7; and Sussex West – Phase 2, effective December 7.

3. Christmas and New Year's Holidays

Please note, County offices will be closed on December 25 and 26 to celebrate the Christmas holiday, and January 1 for the New Year's holiday. In addition, the Sussex County Council will not meet on December 19 or December 26. The next regularly scheduled Council meeting will be held on Tuesday, January 2, at 10:00 a.m.

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

Quarterly Pension Update and Recommendation

Ms. Jennings, Finance Director, presented a quarterly pension update, which included a quarterly performance summary, annual actuarial report and recommendation to change the OPEB funding policy.

The market value of the Pension Fund, as of September 30, 2017, was \$90 million reflecting a third quarter return 2.7 percent, and a one year return of 11.1 percent. The County's assumed rate of return is 7.25 percent for both the Pension and OPEB funds. The market value of the OPEB Fund, as of September 30, 2017, was \$41.6 million reflecting a third quarter return of 3.1 percent, and a one year return of 11.2 percent.

Ms. Jennings presented the annual actuarial report for the Pension Fund as of June 30, 2017. The FY 2017 recommended contribution was \$3.4 million and \$4.1 million in FY 2018. The County contributed an extra \$5 million in FY 2018, which resulted in a \$9.2 million contribution. The unfunded liability increased from FY 2017 (\$15.7 million) to FY 2018 (\$21 million). The increase was due to the change in the assumed rate of return from 7.5 percent to 7.25 percent, and plan changes for 12 hour employees (40 to 42 hours and added 5 years). The Pension Plan realized an increase in the funded ratio of one percent in FY 2018 to 79 percent. The Pension Plan will be fully funded in 19 years (2036).

Ms. Jennings presented the annual actuarial report for the OPEB Fund as of June 30, 2017. The FY 2017 recommended contribution was \$1.9 million. The County also contributed an additional \$5 million in FY 2018, which resulted in a \$6.9 million contribution. The unfunded liability decreased from \$16,983,000 (FY 2017) to \$16,956,000 (FY 2018), and the funded ratio increased by 3 percentage points to 68 percent in FY 2018. The 20-year projection will result in the OPEB Plan being 98 percent funded in 2037.

Ms. Jennings reviewed the recommendation to change the OPEB Policy as a result of GASB regulations requiring a close period of amortization versus an open period. This change will not have a financial impact on the County.

M 642 17
Adopt
Change/
OPEB Plan/
Adopt
Close
Level
Percent
of Pay

A Motion was made by Mr. Cole, seconded by Mr. Burton, that the Sussex County Council, based on the recommendation of the Pension Committee and the County's actuary, Cheiron, change the OPEB funding policy to state that the Actuarial Determined Contribution will include the amortization of the unfunded actuarial liability over a 30-year close level percent of pay.

Motion Adopted: 4 Yeas; 1 Absent.

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

Mr. Vincent made comment regarding the returns realized by the State of Delaware, as well as the ability of the County to continue Pension funding at current levels.

Heron Bay
Community
MOU
Status
Report

Hans Medlarz, County Engineer, and Mike Brady, Director of Public Works, presented a status update regarding the Memorandum of Understanding (MOU) between Sussex County, Heron Bay Associates and LC Homes Delaware. Council approved the MOU at their February 14, 2017 meeting for the completion of remaining correctional drainage work and the amenities in the Heron Bay Development as was presented. Mr. Medlarz noted that when the MOU was approved, the County was attempting to achieve implementation of the amenities. When the plan was approved, the amenities plan was part of the approval; however, there was no stipulation of when it had to be completed. Discussion as to what was and was not included in the MOU was reviewed.

Mr. Arlett reentered the meeting.

Mr. Medlarz stated that it his hope to receive Council's concurrence on the status of the MOU and, hopefully, close the MOU, short of the area that was shown on the site plan and all the ongoing driveway constructions. In their PowerPoint presentation, an aerial view of the community and a diagram of the amenities area were shown. As individual sections of the MOU are completed, the contractor would be allotted a limited number of building permits. The original approved plan was approved without any specifics to these improvements. The MOU was the vehicle to have these amenities completed. Subsections 3 thru 8 of the MOU were reviewed and discussed at length (sidewalks; swales; drainage; playground relocation; shed; hedgerow; landscaping; jogging trail; tennis, bocce ball and basketball courts; horseshoe pits; walking path, etc.). On many occasions, detailed information was not included in the amenities package so the use and importance of specific language was discussed.

M 643 17
Close Out
MOU/

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that the Memorandum of Understanding between Sussex County and Heron Bay

Heron Bay Community

Associates, LLC and LC Homes, dated March 17, 2017, be closed out, given the requirements of the memorandum having been substantially completed.

Motion Adopted: 5 Yeas.

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

Taxiway C Pavement Rehab

Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for Taxiway C Pavement Rehabilitation, Phase I, Project No. 17-02. Mr. Medlarz noted that these items pertain to the preventive maintenance of the asphalt at the airport. This particular project was awarded in July 2016, with successful completion and under budget.

M 644 17 Approve Change Order No. 1/ Substantial Completion/ Taxiway C Pavement Rehab

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract No. 17-02, Taxiway C Pavement Rehabilitation, Phase I be approved, which decreases the contract amount by \$50,383.72, for a new total of \$509,624.28 and that substantial completion be granted effective October 10, 2017 and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

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

Sussex Shores Subdivision/ Contract Amendment No. 2 and Balancing Change Order and Substantial Completion

Mr. Medlarz, County Engineering, presented Contract Amendment No. 2 for Additional Construction Administration and RPR Services, Sussex Shores Subdivision, Chapter 96, Projects 14-13 A, B. Separate contracts were bid and awarded for Utility Relocation, Project No. 14-13A and Roadway Improvements, Project 14-13B. At this time, Amendment No. 2, in an amount of \$16,216.00 is required to complete all services. George, Miles and Buhr (GMB) worked diligently to minimize the extra costs; all costs related to these various contracts, engineering services, etc. will be billed to the property owners as per Chapter 96 requirements.

In addition with the GMB amendment, also included is the Balancing Change Order and Substantial Completion for Project 14-13B, Roadway Improvements, which reduces that contract by \$46,129.64 for a final total of \$318,514.66. The reduction and elimination of contingency items account for most of this decrease, along with reduction of several original items based on actual final measurements.

M 645 17 Sussex

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the

Shores/
Approve
Amendment
No. 2/RPR
Services

Sussex County Council approves Amendment No. 2 for construction administration and resident project representative services with George, Miles & Buhr, for Sussex Shores Community Improvements, in an amount not to exceed \$16,216.00 effective today, December 12, 2017.

Motion Adopted: 4 Yeas; 1 Not Voting.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Not Voting;
Mr. Vincent, Yea

M 646 17
Sussex
Shores/
Approve
Change
Order No. 1
and
Substantial
Completion

A Motion was made by Mr. Burton, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract No. 14-13B, Sussex Shores Subdivision – Roadway Improvements, be approved, which decreases the contact amount by \$46,129.64, for a new total of \$318,514.66, and that substantial completion be granted effective June 9, 2017 and any held retainage be released in accordance with the contract documents.

Motion Adopted: 4 Yeas; 1 Not Voting.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Not Voting;
Mr. Vincent, Yea

Report on
CU 2102/
Arturo
Grandos-
Gonzalez

Janelle Cornwell, Planning and Zoning Director, reported on Conditional Use No. 2102 filed on behalf of Arturo Granados-Gonzalez. At the Council meeting on October 31, 2017, action was deferred for a period of 30 days for receipt of the following information: a response from DNREC, a response from the Delaware State Police, and information on limiting the timeframe for the Conditional Use; once the information requested was received, a report would be given to Council in public session, after which time the public would have 30 days to respond to any information received (in writing only).

Ms. Cornwell stated that a response was received from DNREC regarding the septic system which noted there is no septic permit for that parcel on file (records date back to 1985).

Ms. Cornwell noted that a response was received from DelDOT regarding traffic accidents. There have been 4 accidents in the vicinity of the property since November 29, 2014 and November 29, 2017, with no fatalities.

Sign
Ordinance
Enforce-
ment
Update

Janelle Cornwell, Planning and Zoning Director, and Steven Hickman, Zoning Inspector II, presented a Sign Ordinance enforcement update. (Council passed the new Sign Ordinance at its October 11, 2016 meeting). Their presentation discussed and reviewed complaints, tracking permits, sign equipment, and customer service and permitting process. Ms. Cornwell

(Con't.)

noted that they had received 52 public complaints regarding signage, the majority of which included billboards and electronic message center (EMC) signs; the complaints were primarily in regard to brightness. Mr. Hickman made inspection for all complaints that resulted in 39 violation letters, with only 6 still outstanding. It was noted that he has inspected every billboard and EMC sign within the County to ensure compliance. Included in their PowerPoint presentation were examples of signage not in compliance, as well as before and after pictures. When noncompliance is found, a violation letter is mailed; it was noted that most individuals are very eager to rectify and address any issues. Mr. Hickman is also responsible for sending out the annual invoices for all signage in the County, which averages between 80 to 150 invoices per month. When sending out site plan review letters, a note is also included as to the need for a permit if signage will be included. Mr. Hickman has access to a phone app that allows a picture to be taken of a sign which, in turn, computes the square footage and height of the sign to allow compliance to be immediately known; a light meter also has the ability to measure brightness. It was reported that customer service and the permitting process has been improved. Typically, a person would have to bring the required paperwork into the Planning and Zoning Office, but the sign permit application has been revamped and applicants can now email their paperwork. Once approval has been given and payment for the permit has been received, the permit is emailed back to the applicant. If an unresolved issue is turned over to the Constable's Office, a fee of up to \$100 is possible for noncompliance; this action has not been needed at this point.

Council expressed their appreciation for a job well done and acknowledged the work involved in the enforcement of the County's sign ordinance.

Old
Business/
C/Z 1827 &
C/U 2098
Fenwick
Commons

Under Old Business, the Council discussed the Proposed Ordinances 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 13.33 ACRES, MORE OR LESS" (Change of Zone No. 1827) and 'AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (62 DUPLEX UNITS) STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS" (Conditional Use No. 2098) both filed on behalf of Fenwick Commons, LLC.

Ms. Cornwell noted that the Planning and Zoning Commission held a Public Hearing on these applications on October 12, 2017 at which time action was deferred on both applications; the Commission again deferred action on both applications on October 26, 2017. On November 16, 2017, the Commission recommended that C/Z 1827 be approved and that C/U 2098 be approved with 9 conditions.

(Con't.) The Council held a Public Hearing on these applications on November 14, 2017, at which time action was deferred (Public Hearing and public record were closed).

Mr. Arlett requested that action be deferred on both C/Z 1827 and C/U 2098 to allow further review of Planning & Zoning's record.

M 647 17 A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to defer action
C/Z 1827 on C/Z 1827 filed on behalf of Fenwick Commons, LLC.

Fenwick
Commons
Defer Action

Motion Adopted: 5 Yeas.

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

M 648 17 A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to defer action
C/U 2098 on C/U 2098 filed on behalf of Fenwick Commons, LLC.

Fenwick
Commons
Defer Action

Motion Adopted: 5 Yeas.

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

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

M 649 17 A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$250.00
Council- from Mr. Vincent's Councilmanic Grant Account to the Nanticoke Health
manic Foundation for their prescription drug fund.

Grant/
Nanticoke
Health
Foundation

Motion Adopted: 5 Yeas.

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

M 650 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,500
Council- from Mr. Cole's Councilmanic Grant Account to the Rehoboth Beach
manic Historical Society for their capital campaign.

Grant/
Rehoboth
Historical
Society

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. Cole introduced the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RV/PARK MODEL/TRAILER REPAIR AND REFURBISHMENT BUSINESS WITH OUTDOOR STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS, OF A 32.16-ACRE PARCEL OF LAND" (Conditional Use No. 2111) filed on behalf of Michael Moutzalias [Tax I.D. No. 134-8.00-5.00 (portion of)] (911 Address: 30190 Whites Neck Road, Dagsboro).

Council Comments Mr. Arlett, again, congratulated the Delmar High School Field Hockey and Football teams, and extended his wishes for a Merry Christmas and Happy New Year.

Mr. Burton stated that he would not be in attendance at Council's afternoon session.

Mr. Vincent made comment regarding Council's busy 2018 schedule, which begins in January with the public hearing on "Right to Work" to be held on January 2, 2018; January 16 for the public hearing on the "Special Events Ordinance"; and a Comprehensive Land Use Plan Workshop on January 3.

M 651 17 Recess At 11:41 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, 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 652 17 Reconvene At 1:30 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene.

Motion Adopted: 4 Yeas; 1 Absent.

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

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

**Public Hearing/
C/Z 1834
Colonial
East, L.P.** A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.98

(Con't.)

ACRES, MORE OR LESS" filed on behalf of Colonial East, L.P. (Change of Zone No. 1834) [Tax I.D. No. 334-5.00-165.00 (portion of) and 334-5.00-166.00 (portion of)] (911 Address: 30769 Lewes-Georgetown Highway, Lewes).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

The Planning and Zoning Commission held a Public Hearing on this application on November 16, 2017, at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated November 16, 2017).

Ms. Cornwell noted that one additional letter had been received in support of the application and one additional letter had been received in opposition of the application; the letters were read into the record.

The Council found that David Hutt, Attorney with Morris James Halbrook and Bayard; Ken Christenbury, Project Engineer with Axiom Engineering; Steve Class, owner of Colonial East L.P.; and DJ Hughes, Traffic Engineer with Davis Bowen and Friedel, were present on behalf of the application.

Mr. Hutt noted the property was located on Route 9, near the intersection of Minos Conaway Road, directly in front of the Sussex East and Sussex West manufactured home communities. Both communities began with conditional uses, the first of which was approved in 1981, the second in 1997, and the third in 2007; between the 3 conditional uses, there are a total of 350 units within the communities. At the present time, 96 percent of the units are occupied by 55 plus individuals, and 80 percent of the community are year-round residents. The exhibit notebooks given to Council contain the application, survey of the property, as well as the deeds of the property showing ownership in Colonial East. This particular application is for the front 7 acres of the property and the project is intended to be rezoned to B-1 neighborhood business.

Mr. Christenbury reviewed the site plan. He reiterated that the change of zone does not apply to the entire manufactured home park, only the front 7 acres. The property is located within a low density environmentally sensitive development overlay zone that does allow for commercial areas in proximity to residential communities. Mr. Christenbury stated there is quite a bit of commercial zoning on the Route 9 corridor and further into the Rehoboth area. The area is mapped by the State's Strategies as a Level 2 for State spending, which is an area that does encourage growth and development of this nature. Although a site plan has been prepared, it is nonbinding at a zoning hearing.

(Con't.)

Mr. Hughes noted that he has met with DelDOT and a traffic impact study (TIS) is required. Based on projected trips, two intersections are required. The recommendations for the TIS will be that Route 9 and Sheffield Drive will have to be improved to meet DelDOT standards (a bike lane will be included and the right turn lane will be extended, etc.); an additional lane will be added exiting Sheffield Drive. Requirements for bike lanes were explained. DelDOT approvals will be required for the TIS, as well as a letter of no objection, and entrance plan approvals. The roads are privately owned by Mr. Class; signage could be posted that would encourage traffic from entering the residential community.

Mr. Cole expressed concern that the traffic impact study has not been completed. Mr. Hughes noted that DelDOT does not typically make comment on the approval or denial of an application, but makes recommendations as to traffic requirements. Mr. Moore stated that the applicant would have to comply with the final site plan, which would include recommendations from DelDOT. Mr. Hutt explained that final site plan approval would not be awarded by the Planning Commission until the developer has shown how it can comply with the requirements of DelDOT.

Mr. Class spoke in regard to the master plan and goals for this parcel to be known as Sussex Square, as well as survey results. Both Sussex East and Sussex West are 55 plus communities; the average age is approximately 75 or older. The residents are looking for amenities that would allow them not to have to access Coastal Highway, and is the reason for the B-1 zoning. All development will be low key; there will be no drive-ins, gas stations, Wawa-type of establishments, or drive thru banks, etc. Mr. Class discussed the letter and survey that were sent to the residents; it was noted that residents were informed that lot rents would not be impacted. The survey results reflected that residents wanted amenities that would allow a café with food and a bakery, a farmer's type of market, etc. Currently, golf carts are not permitted within the Sussex East and Sussex West communities.

Mr. Cole again expressed concern regarding the Traffic Impact Study and the precedent that could be set if Council makes a recommendation without the results of the TIS. Mr. Hutt noted that the reason a traffic impact study was required by DelDOT in this matter was because the applicant chose to submit a conceptual site plan with the change of zone request, and the Council does, in fact, rule on change of zone requests without a traffic impact study. Ms. Cornwell noted it is rare for the County to have a TIS for a change of zone application as DelDOT does not complete a TIS on a change of zone application.

Mr. Hughes noted that the total proposed site, without the mobile homes, would generate 1,379 new trips per day and 318 pass-by trips. There would be a total of 2,736 trips added when the existing community trips are included.

(Con't.) Mr. Class commented that he had received two objections in response to the survey.

Mr. Hutt summarized the presentation, as well as the ways in which the application meets the requirements of B-1 Neighborhood Business zoning and warrants approval by Council.

There were no public comments in favor of this application.

Six persons spoke in opposition of this application noting concerns regarding traffic; access roads; road congestion; safety; impact of lighting required for retail parking; lot rent is used for maintenance of the roads within the community so the question was raised as to who would ultimately pay for the maintenance of the roads if the retail space is open to the public; Route 9 is already a heavily signaled roadway; close proximity of retail space to residential area; only 42 residents responded to the survey; neighboring businesses generate traffic and add to an already heavily traveled Route 9; lack of shoulders along roadway; and the need for additional retail space was questioned considering other endeavors have not been successful in the same area.

The Public Hearing was closed. The public record was left open to allow receipt of the Traffic Impact Study report only.

M 653 17
C/Z 1834
Colonial
East, L.P.
Defer Action

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on C/Z 1834 filed on behalf of Colonial East, L.P. and to leave the record open until January 30, 2018 to allow receipt of the Traffic Impact Study only; once the report is received and reported to Council, to then allow a 15-day period for persons to respond in writing only.

Motion Adopted: 4 Yeas; 1 Absent.

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

Public
Hearing/
C/Z 1838
Two Farms,
Inc.

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.85 ACRES, MORE OR LESS" filed on behalf of Two Farms, Inc. (Change of Zone No. 1838) (Tax I.D. No. 135-11.00-78.00) (911 Address: 24616 Lewes-Georgetown Highway, Georgetown).

Although having no vote, Mr. Moore noted that he is an acquaintance with the sellers of this property.

(Con't.) **Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.**

The Planning and Zoning Commission held a Public Hearing on this application on November 16, 2017, at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated November 16, 2017).

The Council found that William Scott, Attorney with Scott and Shuman; Mike Riemann, Engineer from Becker Morgan Group; Randy Bendler, representing Two Farms; and Mr. Harold and Richard Dodd were present on behalf of the application.

Mr. Scott presented a brief overview of the application. This is an application to rezone a 2.85-acre property from AR-1 Agricultural Residential to B-1 Neighborhood Business. The applicant intends to develop the property into a small retail center with approximately 15,000 square feet of leasable space. The property is located at the southeast corner of Route 9, at the intersection with Route 30/Gravel Hill Road. Two Farms is currently pursuing another site – located approximately 2 miles to the east from this property – for the purpose of building a Royal Farms Store.

Mr. Reimann noted that the site is currently a vacant residential property; he reviewed the surrounding properties and current uses along Route 9. The intersection was recently upgraded by DeIDOT. It was reported that a Traffic Impact Study has been completed and is included in the booklet given to Council, including the recommendation that access to the property not be located on Route 9. Other items contained in the booklet were also reviewed that included water and sewer, stormwater management, screening and landscaping, etc. He again, reiterated, that it is not their intent to build a Royal Farms store on the property.

Mr. Scott summarized the presentation, including its compatibility with the Comprehensive Land Use Plan and that it is located in a low density rural area; the land designation does permit commercial development including retail and office use that are contemplated for this site; the property is in the Investment Level 3 and 4 for State spending, but with recent updates to the intersection, no additional State spending will be needed for the infrastructure to support the proposed development; the proposed rezoning would not having any adverse impact on the surrounding properties; Planning and Zoning recommended approval to B-1 and they would hope to obtain the same approval from Council; and the contemplated rezoning is compatible with the surrounding uses.

There were no public comments in favor of this application.

(Con't.) One person spoke in opposition of this application citing traffic concerns.

The Public Hearing and public record were closed.

M 654 17 A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on
C/Z 1838 C/Z 1838 (filed on behalf of Two Farms, Inc.) until January 9, 2018.

Two Farms
Defer Action

Motion Adopted: 4 Yeas; 1 Absent.

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

Public
Hearing/
C/U 2107
Galbraith
Develop-
ment

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 MINI-STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.21 ACRES, MORE OR LESS" filed on behalf of Galbraith Development Group (Conditional Use No. 2107) (Tax I.D. No. 134-17.00-8.09) (911 Address: None Available).

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

The Planning and Zoning Commission held a Public Hearing on this application on November 16, 2017, at which time the Commission deferred action. Since their public hearing, Ms. Cornwell reported that 24 additional letters have been received in opposition to the application.

(See the minutes of the Planning and Zoning Commission dated November 16, 2017).

The Council found that David Hutt, Attorney with Morris James Wilson Halbrook and Bayard; Ken Christenbury, with Axiom Engineering; and Mark Galbraith, with Galbraith Development Group, were present on behalf of the application.

Mr. Hutt made opening remarks. He noted that the property is located along Muddy Neck Road between Parker House Road and Beaver Dam Road. The application is for an approximately 40,000 square foot mini-storage facility. No storage of boats and recreational vehicles would be included in the open-air storage of the site. It was stated that the applicant lives on Muddy Neck Road, and the self-imposed conditions submitted by Mr. Galbraith address most of the concerns expressed in the letters of opposition.

Mr. Christenbury made note of the project books presented to Council, as well as a handout showing traffic projections. The 2008 Comprehensive Land Use Plan and future land use map does identify this as a developing

(Con't.)

area. Although an expired conditional use, the property adjacent to the application was approved by Council for a conditional use (C/U 1552), and the area is a mixture of both residential and commercial uses. Conditional Use No. 1552 was an approval for 9,344 square feet of medical and dental offices; the average weekday traffic generated by that application would have been 325. Using a similar formula, the proposed site would generate 69 trips. It was noted that almost any other use, with the exception of farming, would generate more traffic than a mini-storage facility. In reviewing the site plan, it was noted 15 foot buffers, included in the landscaping plan, are proposed around the site. Mr. Christenbury addressed each concern contained in the letters that were submitted in opposition to the application; he noted that the conditions offered by the applicant – prior to knowing the concerns – were, in fact, already addressed by the conditions included in the application.

To address environmentally sensitive issues, the application would have use of central utilities and avoid the use of on-site wastewater disposal systems. The perimeter of the project does have undisturbed areas which would be left intact, and stormwater management best practices would be required.

Mr. Christenbury stated that 4 units to the acre generates slightly more traffic, and 2 units to the acre would generate slightly less traffic than the proposed use. In comparison, the medical office approved by Council would have generated five times the traffic than that of the mini-storage facility. There would be a total of 19 buildings with each building have multiple units.

Mr. Hutt stated several of the letters of opposition referenced that Council should deny the current application based on the fact they had denied a self-storage facility near the Nassau Bridge in 2014/2015. He noted the points as to how the current application is not similar to the one denied.

Mr. Christenbury referenced a DelDOT functional classification map and discussed the various types of roadways; Route 26 is a minor arterial; Route 17, Route 20, Route 361, and Route 54 are major collectors, with Route 113 being a principal arterial.

There were no public comments in favor of this application.

Fourteen persons spoke in opposition of this application citing traffic concerns; the area is heavily residential and would have a negative impact on neighboring property values; location is not suitable to this type of use; located on a dangerous blind curve; the proposed use is not compatible with residential area; warehousing is not appropriate for the area; crime and safety issues; lighting and fencing concerns; environmental concerns and possible impact to surrounding roadways, wells, septic systems and habitat destruction; the use is out of character for the area and road classification; concern expressed as to the precedent that would be set if this application is

(Con't.) approved; there are 7 storage facilities located within a 10 minute drive of the proposed site and all have open units; and reference was made to Council's unanimous denial of Conditional Use No. 1998 for a mini-storage facility in an AR-1 Residential district; a petition with 115 signatures (the 6 points contained in the petition were reviewed individually), as well as photographs were presented.

The Public Hearing and public record were closed.

M 655 17
C/U 2107
Galbraith
Develop-
ment
Group
Defer Action

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on C/U 2107 filed on behalf Galbraith Development Group.

Motion Denied: 4 Yeas; 1 Absent

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

M 656 17
Adjourn

At 4:24 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn.

Motion Adopted: 4 Yeas; 1 Absent

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



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Delaware Seaside Railroad Club, Inc.

PROJECT NAME: School Workshop 2018

FEDERAL TAX ID: 20-5762923 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: To promote the history and hobby of model railroading. The outreach our club performs through our open house operations in Dagsboro, the school workshops we conduct with local public and private schools, and our displays and shows throughout Sussex County, perform this mission.

ADDRESS: P.O. Box 479, Ocean View, DE 19970 (Mail)
32442 Royal Blvd.
Dagsboro DE 19939
(CITY) (STATE) (ZIP)

CONTACT PERSON: John C. Hodges
TITLE: President
PHONE: 302-448-5654 EMAIL: jchodges46@verizon.net

TOTAL FUNDING REQUEST: _____

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

If YES, how much was received in the last 12 months? _____

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 20%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input type="checkbox"/> Other _____ | <input checked="" type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|--|---|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input type="checkbox"/> Low to Moderate Income ² | <input checked="" type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input checked="" type="checkbox"/> Other _____ | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

700

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

We are involved in educating the public in general, and the youth in particular to the advantages to working with ones hands and learning lifelong skills while gaining enjoyment and fulfillment in a hobby, like that of model railroading.

We continue to offer enrichment educational experience to local schools, such as the North Georgetown Elementary School in years 2007 through 2010, and more recently the Lighthouse School in Dagsboro. We also invite youth to join our club as Junior Members, and they pay no dues, but are welcome to be involved in our various projects including constructing small to medium sized model railroads. These programs give practical experience in use of tools, low-voltage electrical circuits wiring, planning and design, and art in the form of scenic construction, often employing just basic materials.

While our focus is toward the educational programs for youth, we offer many services to local families when they need to evaluate and often sell their toy trains. This might include valuations, repairs, guidance in how to sell their items, and references to various outlets for their family train collections.

Having leased our current facility since mid-2015, we find the location valuable as many local and out-of-town visitors enjoy visiting, remembering their old trains, and then being stimulated into sharing these treasures with their children and grandchildren. We have opened our doors every Wednesday evening from 5 pm until 8 pm, and every Saturday from 10 am until 3 pm since July of 2015, with two closings for winter weather. We have never charged admission to our club.

We are asking for a small grant to help pay the rent during the months we expect to hold our next workshop with a local school or scout group during 2018.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	9,000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Rent (2018)	-\$ 12,960.00
TOTAL EXPENDITURES	-\$ 12,960.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-\$ 3,960.00

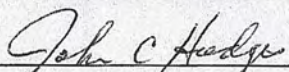
SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Delaware Seaside RR Club agrees that:
(Name of Organization)

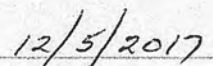
- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

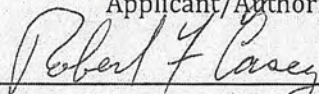
- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**



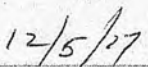
Applicant/Authorized Official



Date



Witness



Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

John C. Hodges
Applicant/Authorized Official

President
Title

Robert F. Casey
Witness

12/5/17
Date

Arlett
12-06-17



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Ocean View Historical Society

PROJECT NAME: Hall's Store Visitor and Education Center

FEDERAL TAX ID: 26-1719840 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: The mission of the Ocean View Historical Society is to preserve, interpret, and share the history of Ocean View and the surrounding towns known as the Baltimore Hundred.

ADDRESS: P.O. Box 576

Ocean View DE 19970
(CITY) (STATE) (ZIP)

CONTACT PERSON: Barbara Slavin

TITLE: Board President

PHONE: 302-593-8814 EMAIL: slavinbe1@yahoo.com

TOTAL FUNDING REQUEST: \$2,000.00

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

If YES, how much was received in the last 12 months? \$1,000 Human Services

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? <1%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Fair Housing | <input type="checkbox"/> Health and Human Services | <input checked="" type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input type="checkbox"/> Other _____ | <input type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|--|-----------------------------------|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input type="checkbox"/> Homeless |
| <input type="checkbox"/> Elderly Persons | <input type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input checked="" type="checkbox"/> Other <u>All Ages</u> | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:
3,000

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

Ocean View and the neighboring communities of Millville, Clarksville, Bayard, Blackwater, Williamsville, Selbyville, Omar, Clarksville, Muddy Neck, Cedar Neck, Bethany, South Bethany and Fenwick, make up coastal Delaware between the Indian River Inlet and the DE-MD southern boundary. These villages have grown from small hamlets of subsistence farmers and seafarers into vibrant coastal communities. This part of Delaware is not only a wonderful place to live, but also embodies a rich and interesting history. The Ocean View Historical Society, incorporated in 2008, preserves and shares this history by presenting public lectures, workshops, history mixers, special open houses and historic tours.

The mission of the OVHS is to preserve, interpret and share the history of Ocean View and the Baltimore Hundred. To fulfill its mission, the Ocean View Historical Society is currently engaged in a campaign to:

- 1) Building Hall's Store Visitor and Education Center as the hub for the Ocean View Historical Complex; and,
- 2) Create a Coastal Towns Museum at 40 West Avenue within the Evans-West House, a 1901 Gothic Revival House located adjacent to the Ocean View Town Park.

This Ocean View Historical Complex is open to the public at announced times during the year, and regularly each Wednesday afternoon during the summer months, when the area swells with summer visitors. OVHS docents greet visitors, sometimes in period dress, and provide guided tours of the complex buildings. Children of the Indian River School District are a priority visitor group.

The OVHS is in the process of constructing Hall's Store Visitor and Education Center for the Ocean View Historical Complex, which will be the first stop for visitors as we welcome them to the property. We hope the Sussex County Council will consider partnering with OVHS by providing grant funds to help reach our budget for the campaign. The completed Historical Complex will attract thousands of visitors and residents each year and educate them about the rich history of our lower Sussex County.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	394,085.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Plans and Development	-\$ 21,376.00
Site Work	-\$ 86,898.00
Project Costs	-\$ 35,613.00
Utilities	-\$ 6,400.00
Demolition	-\$ 8,000.00
Permits and Fees	-\$ 3,775.00
Construction of Hall's Store Visitor and Education Center	-\$ 232,023.00
TOTAL EXPENDITURES	-\$ 394,085.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	\$ 0.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Ocean View Historical Society agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
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Barbara Slavin

Applicant/Authorized Official

December 11, 2017

Date

Mary Lou Tietz

Witness

December 11, 2017

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

Handwritten initials

SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

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I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

Barbara Slavin
Applicant/Authorized Official

Board President
Title

Mary Lou Tietz
Witness

12/11/2017
Date

Cole
12/18/17

JANELLE M. CORNWELL, AICP
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
janelle.cornwell@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: December 22, 2017

RE: County Council Report for Ordinance for Commercial Zoning Districts

The Planning and Zoning Commission held a public hearing on December 21, 2017. The following are the draft minutes and motion for the ordinance from the Planning and Zoning Commission meeting.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW "B-2 BUSINESS COMMUNITY" DISTRICT; "B-3 BUSINESS RESEARCH" DISTRICT; "C-2 MEDIUM COMMERCIAL" DISTRICT; "C-3 HEAVY COMMERCIAL" DISTRICT; "C-4, PLANNED COMMERCIAL" DISTRICT; "C-5, SERVICE/LIMITED MANUFACTURING" DISTRICT, AND "I-1, INSTITUTIONAL" DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND "115 ATTACHMENT 3, SUSSEX COUNTY TABLE III"; TO CREATE "115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV".

Mr. Robertson advised the Commission that the original ordinance was discussed earlier this year; that the County worked with a consultant in trying to make the commercial zoning districts more predictable for both the County and public; that the new zoning districts are more specific with regards to uses; that one of the new districts is a planned commercial district; that the C-4 planned commercial district is similar to a RPC, as it allows a change of zone with site plan review and the ability to impose conditions on the application; that when the original ordinance was introduced the consultant created a table of uses within the new zoning districts; that the table and the text did not align; that they were not major changes that needed to be addressed; that the changes were to address issues where the table stated a use as an accessory use while the text had it as a permitted use and similar issues; that it was also determined that certain uses such as technology centers and other uses were not identified in the new districts; that there was an error in how the new districts addressed temporary removable stands; that the original ordinance referenced fewer than 6 or more than 6 fuel pumps but not 6 fuel pumps; that it combined separate retail uses into one retail use classification; that the re-introduced ordinance addresses these items; that it is the same information



as before and districts which were shown in the power point presentations at previous meetings; that it was determined that it would be easier to re-introduce the ordinance which addressed the changes rather than adopt an ordinance with line by line with the changes that were needed; that the ordinance included input from commercial realtors, developers and public and they were in favor of the ordinance; that the planned commercial district will allow for mixed use buildings; that there was discussion that the new districts, especially the planned commercial district are needed; that there was discussion about the definition on line 210 and 211 and consideration of removing the text prohibiting major repairs; that there was discussion on the number of removable vendors; that the number is from the original ordinance and it could be considered in the future; that there was discussion about medical clinics and if it included small doctors' offices; that it was stated that doctor's offices can be classified as professional offices or a home based business and not specifically as a medical clinic; that there was discussion about increasing the building height if more open space is preserved, interconnectivity provided or setbacks increased; and that there is a provision in the districts that will allow the Planning Commission to make a determination of a use similar to the provision in the industrial district.

Mr. Wheatley, moved that the Commission recommend approval of the revised Ordinance for Commercial Zoning Districts with the further recommendation:

1. That County Council should increase the height permissible in the C-2, C-3, C-4, C-5 and I-1 districts upon a showing that the increased height preserves such things as open space, interconnectivity or setbacks, and
2. remove the language "... but not including major repair work such as motor replacement, body and fender repair or spray painting." from lines 210 and 211 of the ordinance.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to forward this ordinance to the Sussex County Council with the recommendation that the ordinance be approved with the recommendations. Motion carried 4-0.

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AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW “B-2 BUSINESS COMMUNITY” DISTRICT; “B-3 BUSINESS RESEARCH” DISTRICT; “C-2 MEDIUM COMMERCIAL” DISTRICT; “C-3 HEAVY COMMERCIAL” DISTRICT; “C-4, PLANNED COMMERCIAL” DISTRICT; “C-5, SERVICE/LIMITED MANUFACTURING” DISTRICT, AND “I-1, INSTITUTIONAL” DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND “115 ATTACHMENT 3, SUSSEX COUNTY TABLE III”; TO CREATE “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”.

WHEREAS, Sussex County Council has found that the current County Code provisions for Commercial and Business Zoning Districts can be overly broad, with a wide variety of permitted uses in each; and

WHEREAS, in many prior zoning applications, one of the primary concerns of County Council and the public has been the uncertainty about what may actually be constructed on a site rezoned to CR-1 or B-1, since the application is not use-specific and may change; and

WHEREAS, Sussex County Council desires to create more specific zoning districts with smaller, more related uses within each District to promote better planning and predictability within Sussex County; and

WHEREAS, Sussex County has engaged the services of a land use planning consultant to study current and potential future zoning categories to determine the best way to consider amending the Zoning Code to create more specific commercial and business zoning districts; and

WHEREAS, it is necessary to establish that the current CR-1, Commercial Residential, and B-1, Neighborhood Business Districts shall become “Closed Districts”; and

WHEREAS, this amendment will not affect lands currently zoned C-1, General Commercial, CR-1, Commercial Residential, or B-1, Neighborhood Business, which will remain as they are currently zoned, with all of the permitted uses allowed therein; and

WHEREAS, these amendments will promote the public health, safety and welfare of Sussex County, its residents, visitors and businesses.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 115, Article I, §115-4.B “Definitions and Word Usage” is hereby amended by inserting the italicized and underlined language in alphabetical order within the Section as follows:

§115-4 Definitions and Word Usage.

...

40 B. General definitions. For the purpose of this chapter, certain terms and words are hereby
41 defined as follows:

42 ACRE

43 A measurement of land area equivalent to approximately 43,560 square feet

44

45 ADJACENT

46 Physically touching or bordering upon; sharing a common boundary, but not overlapping.

47

48 . . .

49

50 ALCOHOLIC BEVERAGE SALES

51 The retail sale of beer, wine, or other alcoholic beverages for on- or off-premises consumption in
52 compliance with the The Office of the Delaware Alcoholic Beverage Control Commissioner
53 (OABCC).

54

55 ANIMAL HOSPITAL

56 A place where animals are given medical care and the boarding of animals is limited to short-
57 term care incidental to the hospital use.

58

59 . . .

60

61 APPLICANT

62 Any individual submitting a plan for development under the provisions of this ordinance.

63

64 . . .

65

66 AVERAGE DAILY TRAFFIC (ADT)

67 The total volume of traffic during a given time period in whole days greater than one day and
68 less than one year, divided by the number of days in that time period.

69

70 . . .

71

72 BED & BREAKFAST

73 A lodging place with no more than 6 guest rooms, or suites of rooms, available for temporary
74 occupancy, whose owner resides at the facility, and where meals are available only to guests at
75 the facility.

76

77 . . .

78

79 BREWERY

80 Establishments that are primarily a brewery, which produce more than 15,000 barrels per year.
81 A regional (small) brewery typically has an annual beer production of between 15,000 and
82 6,000,000 barrels. A large brewery typically has an annual beer production of more than
83 6,000,000 barrels.

84

85 BREW/ DISTILLING PUB

86 An establishment in which beer or liquor is manufactured on the premises of the licensed
87 establishment, limited to restaurants owned or leased by the pub applicant; and where alcohol is
88 manufactured in the establishment, and is sold for on-premises consumption, in conjunction with
89 the service of complete meals.

90
91 ...

92
93 **BULK REQUIREMENTS**

94 A term used in this chapter to describe the size and shape of a building or structure and its
95 relationship to other buildings, to the lot area for a building and yards. See: 115 Attachment 1.

96
97 **CLINIC, MEDICAL**

98 A building or portion thereof designed for, constructed or under construction or alteration for or
99 used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists or
100 practitioners in related specialties or a combination of persons in these professions, but not
101 including lodging of patients overnight

102
103 **CLUB INDOOR, PRIVATE**

104 Buildings and facilities owned or operated by a corporation, association, person or persons for a
105 social, educational or recreational purpose but not primarily for profit which insures to any
106 individual and not primarily to render a service which is customarily looked on as a business.
107 For outdoor private recreational clubs See: Recreational Facility, Private

108
109 ...

110
111 **COLLECTOR STREET**

112 A street which is intended to collect traffic from the minor streets within a neighborhood or a
113 portion thereof and to distribute such traffic to major thoroughfares.

114
115 ...

116
117 **COMMUNICATION TOWER**

118 The antenna(e), antenna support structure, wireless communications equipment building,
119 parking and/or other structures, building, cabinets and equipment involved in receiving or
120 transmitting wireless communications or radio signals.

121
122 **COMMUNITY CENTER**

123 A building used for recreational, social, educational, and cultural activities, open to the public
124 or a designated part of the public, usually owned and operated by a public or nonprofit group or
125 agency.

126
127 **CONDITIONS OF APPROVAL**

128 Conditions, placed on the final approval of an applicant's plan, that are both consistent with the
129 Guidelines for Development Review and do not allow for the denial of a plan that is consistent
130 with the objectives of the Guidelines for Development Review and appropriate uses and
131 intensities of use set forth in this Ordinance.

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...

[CONVALESCENT HOME

A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.]

CONVENIENCE STORE

Any retail establishment offering for sale prepackaged food products, household items, newspapers, and prepared foods usually for off-site consumption.

FUEL STATION

An accessory use for the retail dispensing or sales of vehicular fuels consisting of fuel pumps.

[DAY-CARE CENTER (Day Nurseries Or Child-Care Center).

A center which provides care or instruction for more than six children and operates on a regular basis, excepting those defined under a home occupation as a "family day-care home."]

CHILD CARE (as per Delaware Code)

FAMILY CHILD CARE HOMES

Child care in a private home for one to six children preschool-age or younger and one to three school-age children.

LARGE FAMILY CHILD CARE HOMES

Child care in a private home or commercial (non-residential) setting for seven to twelve children preschool-age or younger and one or two school-age children.

EARLY CARE AND EDUCATION AND SCHOOL-AGE CENTERS

Child care in a commercial (non-residential) setting for thirteen or more children (includes day care centers, nursery schools, preschools, and before/after school care).

RESIDENTIAL CHILD CARE FACILITIES AND DAY TREATMENT PROGRAMS services

for children with behavioral dysfunctions; developmental, emotional, mental or physical impairments; and/or chemical dependencies.

CHILD PLACING AGENCIES

Adoption and foster care services.

...

DISTILLERY

A facility that distills alcoholic beverages or spirits and may include the intake of grains, fruits, sugars or other products, their fermentation, distilling, aging, and bottling. Products may include liquors, liqueurs, brandies, etc. Such facilities may include a tasting room or retail space to sell the products to patrons on site.

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...
DISTRICT, COMMERCIAL

Any district designated in these regulations as a business or commercial district or special commercial district [under Article II, IX, X or XI] of this chapter or containing the word "business" or "commercial" in its title.

...
DISTRIBUTION CENTER

An establishment that distributes and stores goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

DWELLING, MULTI-FAMILY CONVERTED

A structure converted from a single family dwelling unit into a multifamily dwelling unit.

...
EASEMENT

Authorization by a property owner for another to use the owner's property for a specified purpose.

EDUCATIONAL INSTITUTION

Any school, educational institution or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, middle school, elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or any other program of trade, technical or artistic instruction.

SERVICE OR FILLING STATION

Any building, structure or land used for the sale, at retail, of motor vehicle fuels, lubricants or accessories or for the servicing of automobiles or repairing of automobiles or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

FITNESS CENTER

A private health, athletic or recreational club facility that provides fitness services including, but not limited to gymnasiums (except public), weight training facilities, aerobic floors, tennis/racquetball courts, swimming pools, and similar athletic facilities, with full service amenities including but not limited to showers, lockers, baths and saunas.

...
FUNERAL HOME

222 A building or part thereof used for human funeral services, including chapels, embalming,
223 autopsies, storage of caskets, funeral urns and other related funeral supplies, and the storage of
224 funeral vehicles, but does not include facilities for cremation.

225
226 GARAGE, COMMERCIAL

227 A deck, building, structure, or part thereof, used for the parking and storage of vehicles for a
228 commercial application.

229
230 . . .

231
232 GREEN

233 A civic space for passive recreation, spatially defined by landscaping rather than buildings.
234

235 . . .

236
237 GREENHOUSE, COMMERCIAL

238 A structure in which plants, vegetables, flowers, and similar materials are grown for sale.

239
240 GREENWAY

241 An open space corridor in largely natural conditions which may include trails for bicycles and
242 pedestrians.

243
244 GROUP HOME

245 A residential facility licensed or approved by a state agency serving three to ten developmentally
246 disabled persons on a 24 hour per day basis pursuant to 16 Del. C. 1101 and must meet
247 minimum acceptable standards for living conditions and supports.

248
249 . . .

250
251 HOSPITAL

252 A building or group of buildings having room facilities for overnight patients, used for providing
253 services for the inpatient medical or surgical care of sick or injured humans and which may
254 include related facilities, central service facilities and staff offices; provided, however, that such
255 related facility must be incidental and subordinate to the main use and must be an integral part of
256 the hospital operations. *This use Requires a license issued under DE Code, Title 16, Chapter 10,*
257 *Sec. 1003; but does not include sanatoriums, rest homes, nursing homes or boarding homes.*

258
259 . . .

260
261 MAJOR ARTERIAL ROADWAYS

262 Those roadways in the unincorporated areas of Sussex County or subject to the zoning
263 regulation of Sussex County, Delaware, which because of the traffic patterns of Sussex County
264 operate at capacity and which are designated as follows:

265 A. Delaware Route 1 from the Kent County line to the Worcester County, Maryland, line.

266 B. U.S. Route 113 from the Kent County line to the Worcester County, Maryland, line.

267 C. U.S. Route 13 from the Kent County line to the Wicomico County, Maryland, line.

268 D. Delaware Route 404 from the Caroline County, Maryland, line to its intersection with
269 Delaware Route 18.

270 E. Delaware Route 18 from its intersection with Delaware Route 404 to its intersection with U.S.
271 Route 113.

272 F. U.S. Route 9 from its intersection with U.S. Route 13 to its intersection with Delaware Route
273 1.

274 G. U.S. Route 9 from its intersection with Delaware Route 1 to the southwesterly town limit of
275 the Town of Lewes.

276
277 . . .

279 MANUFACTURING

280 Establishments engaged in the mechanical or chemical transformation of materials or
281 substances into new products, including the assembling of component parts, the creation of
282 products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

283 (a) Manufacturing includes all mechanical or chemical transformations regardless of
284 whether the new product is finished or semi-finished as a raw material for further
285 processing.

286 (b) The processing of farm products grown on a farm is not manufacturing, but rather, an
287 accessory use to farming operations.

289 MARINE CONTRACTING

290 Development, redevelopment or renovation development in or adjacent to a water body,
291 including but not limited to any original construction or extension, modification or alteration of
292 any dock, seawall, retaining wall, pier, finger pier, dolphin, bulkhead, dock house, boat house or
293 boat lift.

294
295 . . .

297 MATERIAL STORAGE YARD

298 An outdoor area where vehicles, equipment, merchandise, raw materials, or other items are
299 accumulated and stored for an indefinite period until needed. Storage yards are often used in
300 conjunction with a warehouse, storage buildings, sheds or other structures and may be public or
301 private. Unless a function of a government agency or public utility, storage yards are
302 considered accessory to a business or other principal use.

303
304 . . .

306 NURSING & SIMILAR CARE FACILITIES

307 A facility that offers any of the following types of care or services and including, but not limited
308 to, facilities regulated by the State Department of Health and Social Services:

309 ASSISTED LIVING FACILITY

310 Residences for the elderly that provide rooms, meals, personal care, and supervision of
311 self-administered medication and may provide other services such as recreational
312 activities, financial services, and transportation.

313

314 EXTENDED CARE FACILITY
315 A long-term facility or distinct part of a facility licensed or approved as a nursing home,
316 infirmiry unit of a home for the aged, or a governmental medical institution.

317
318 GRADUATE CARE FACILITY
319 Contains elements of elderly independent living, assisted living and nursing homes.
320 Residents can take advantage of the full range of services available and the ease of
321 transfer to a different type of facility as his or condition and needs change without
322 needing to look for a new facility, relocate or adapt to a new setting. The resident may
323 begin in the independent living residences, move to assisted living as he or she needs help
324 with activities of daily living, and eventually move to the nursing home as ongoing care
325 becomes necessary.

326
327 INDEPENDENT CARE FACILITY
328 A residential development of detached single family dwelling units or townhouse dwelling
329 units restricted to individuals or families in which all residents are older adults. Such
330 development may contain compatible commercial elements.

331
332 INTERMEDIATE CARE FACILITY
333 A facility that provides, on a regular basis, personal care, including dressing and eating
334 and health-related care and services, to individuals who require such assistance but who
335 do not require the degree of care and treatment that a hospital or skilled nursing facility
336 provides.

337
338 LONG-TERM CARE FACILITY
339 An institution or a distinct part of an institution that is licensed or approved to provide
340 health care under medical supervision for 24 or more consecutive hours.

341
342 OTHER
343 Including family care homes, group homes, intermediate care facilities for persons with
344 mental retardation, neighborhood group homes, family care homes, and rest residential
345 facilities.

346
347 OFFICE
348 A room or group of rooms used for conducting the affairs of a business, profession, service,
349 industry, or government and generally furnished with desks, tables, files, and communications
350 equipment.

351
352 ...

353
354 PARKING STRUCTURE
355 A parking structure is a building containing two or more stories of parking.

356
357 PATH

358 A pedestrian way traversing open space or rural area, with landscape consistent with the
359 preservation of ecological functions of the open space, ideally connecting directly with the
360 sidewalk network.

361
362 PHARMACY

363 A building or structure that is intended to provide prescribed or non-prescribed medication
364 along with medical equipment and other items that can be used for improving health and quality
365 of life.

366
367 . . .

368
369 PLACE OF WORSHIP

370 A building or structure, or groups of buildings or structures, that by design and construction are
371 primarily intended for conducting organized religious services and associated accessory uses.

372
373 . . .

374
375 PUBLIC BUILDING

376 A building, owned or leased, occupied, and used by an agency or political subdivision of the
377 federal, state, county, or municipal government.

378 PUBLIC SAFETY FACILITY

379 A building or structure used for the provision of public safety services, such as police protection,
380 fire protection, emergency medical service, and rescue operations.

381
382 PUBLIC UTILITY SERVICE

383 The generation, transmission, and/or distribution of electricity, gas, steam, communications, and
384 water; the collection and treatment of sewage and solid waste; and the provision of mass transit
385 to the public.

386
387 PUBLIC UTILITY SERVICE FACILITY

388 Any use or structure associated with the provision of utility services.

389
390 PUBLIC UTILITY SERVICE LINES

391 The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility
392 service. This includes equipment that is incidental and necessary to the lines and that is
393 located on the lines.

394
395 PUBLIC WATER AND SEWER SYSTEM

396 Any system, other than an individual septic tank, tile field, or individual well, that is operated by
397 a governmental agency, a public utility, or a private individual or corporation licensed by the
398 appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing
399 of potable water.

400
401 RECREATION FACILITY

402 A place designed and equipped for the conduct of sports and leisure-time activities.

403

404 RECREATION FACILITY, COMMERCIAL
405 A recreation facility operated as a business and open to the public for a fee.

406
407 RECREATION FACILITY, PERSONAL
408 A recreation facility provided as an accessory use on the same lot as the principal permitted
409 use and designed to be used primarily by the occupants of the principal use and their guests.

410
411 RECREATION FACILITY, PRIVATE
412 A recreation facility operated by a nonprofit organization and open only to bona fide
413 members and guests of such nonprofit organization.

414
415 RECREATION FACILITY, GOVERNMENT
416 A recreation facility owned, or operated by a government organization

417
418 ...

419
420 RESTAURANT
421 A restaurant includes the following:

- 422 a) Establishments where food and drink are prepared, served, and sold primarily for
423 consumption within the principal building.
424 (b) Establishments where food and/or beverages are sold in a form ready for consumption,
425 where all or a significant portion of the consumption takes place or is designed to take
426 place outside of the confines of the restaurant, and where ordering and pickup of food
427 may take place from an automobile.

428
429 RETAIL SALES
430 Establishments engaged in selling goods or merchandise to the general public for personal or
431 household consumption and rendering services incidental to the sale of such goods.

- 432 Characteristics of such uses include:
433 (a) Usually a business place engaged in activity to attract the general public to buy.
434 (b) Buys and receives as well as sells merchandise.
435 (c) May process or manufacture some of its products—a jeweler or a bakery—but processing
436 is secondary to principal use.
437 (d) Generally sells to customers for personal or household use.

438
439 ...

440
441 SELF-STORAGE FACILITY
442 A structure containing separate, individual, and private storage spaces of varying sizes leased or
443 rented on an individual basis for varying amounts of time.

444
445 SERVICES, COMMERCIAL
446 Establishments primarily engaged in providing assistance, as opposed to products, to
447 individuals, businesses, industry, government, and other enterprises, including hotels and other
448 lodging places; personal, business, repair, and amusement services; health, legal, engineering,

449 and other professional services; educational services; membership organizations; and other
450 miscellaneous services.

451

452 SERVICES, BUSINESS

453 Establishments primarily engaged in rendering services to business establishments on a fee
454 or contract basis, such as advertising and mailing; building maintenance; employment
455 services; management and consulting services; protective services; equipment rental and
456 leasing; commercial research; development and testing; photo finishing; and personal
457 supply services.

458

459 SERVICES, PERSONAL

460 Establishments primarily engaged in providing services involving the care of a person or his
461 or her personal goods or apparel.

462

463 SERVICES, ENTERTAINMENT

464 Establishments providing services or entertainment, as opposed to products, to the general
465 public for personal or household use, including bowling alleys, miniature golf, indoor
466 amusements, motion pictures, amusement and recreation services, museums, and galleries.

467

468 ...

469

470 SHOPPING CENTER

471 A group of commercial establishments planned, constructed and managed as a total entity in
472 accordance with an approved plan, with customer and employee parking provided on site,
473 provision for goods delivery separated from customer access, aesthetic considerations and
474 protection from the elements, and landscaping and signage.

475

476 ...

477

478 SURGICAL CENTER

479 A facility where outpatients come for simple surgical procedures and are not lodged overnight.

480

481 ...

482

483 TECHNOLOGY CENTER

484 A repository that primarily houses computing facilities such as servers, routers, switches and
485 firewalls, as well as supporting components like backup equipment, fire suppression facilities
486 and air conditioning

487

488 ...

489

490 USE

491 The purpose or activity for which land or buildings are designed, arranged, or intended or for
492 which land or buildings are occupied or maintained.

493

494 WAREHOUSE

495 A building used primarily for the storage of goods and materials.

496

497 . . .

498

499 WHOLESALE ESTABLISHMENT

500 For the purposes of this chapter, a wholesale establishment is a wholesale warehouse type of
501 retail store establishment.

502

503 WHOLESALE TRADE ESTABLISHMENT

504 Establishments or places of business primarily engaged in selling merchandise to retailers; to
505 industrial, commercial, institutional, or professional business users; to other wholesalers; or
506 acting as agents or brokers and buying merchandise for, or selling merchandise to, such
507 individuals or companies.

508

509 . . .

510

511 WINERY

512 A facility where wine is manufactured and packaged. Such facilities may include a tasting room
513 or retail space to sell the products to patrons for on-site or off-site consumption.

514

515 **Section 2.** The Code of Sussex County, Chapter 115, Article I, §115-5 “Districts
516 Established” is hereby amended by inserting the italicized and underlined language therein as
517 follows:

518 **§ 115-5. District established.**

519 In order to regulate and restrict the location and use of buildings and land for trade, industry,
520 residence and other purposes and to regulate and restrict the location, height and size of buildings
521 hereafter erected or structurally altered, the size of yards and other open spaces and the density
522 of population, the following zoning districts are hereby established:

523 A. Residential districts:

- 524 AR-1 Agricultural Residential District
- 525 AR-2 Agricultural Residential District
- 526 MR Medium-Density Residential District
- 527 GR General Residential District
- 528 HR-1 High-Density Residential District
- 529 HR-2 High-Density Residential District
- 530 UR Urban Residential District
- 531 RPC Residential Planned Community District
- 532 VRP Vacation-Retirement-Residential-Park District

533 B. Business and commercial districts:

- 534 UB Urban Business District
- 535 B-1 Neighborhood Business District

536 C-1 General Commercial District
537 CR-1 Commercial Residential District
538 B-2 Business Community District
539 B-3 Business Research District
540 C-2 Medium Commercial District
541 C-3 Heavy Commercial District
542 C-4 Planned Commercial District
543 C-5 Service/ Limited Manufacturing District
544 I-1 Institutional District

545 C. Industrial districts:
546 M Marine District
547 LI-1 Limited Industrial District
548 LI-2 Light Industrial District
549 HI-1 Heavy Industrial District
550 D. Flood-prone districts:
551 FP Coastal Floodplain
552 HA Coastal High-Hazard Area
553 FW Floodway
554 FF Floodway Fringe
555

556 **Section 3.** The Code of Sussex County, Chapter 115, Article X, §115-75 “Reference to
557 additional regulations” is hereby amended by re-labeling the existing language as subsection
558 “A.” and adding a new subsection “B” thereafter as follows:

559 **§115-75 Reference to additional regulations.**

560 A. The regulations contained in this article are supplemented or modified by regulations
561 contained in other articles of this chapter, especially the following:
562 Article I, § 115-4, Definitions and word usage
563 Article XXI, Signs
564 Article XXII, Off-Street Parking
565 Article XXIII, Off-Street Loading
566 Article XXV, Supplementary Regulations
567 Article XXVII, Board of Adjustment
568

569 B. Closed district. As of _____, the B-1 Neighborhood Business District shall be
570 considered a closed district and shall not be applied to any additional lands in Sussex County.
571 The district and its various provisions and regulations shall continue to exist as the apply to a B-
572 1 District established under the procedures of this chapter.
573
574

575 **Section 4.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
576 Article XA “B-2 Business Community” immediately after Article X “B-1 Neighborhood
577 Business” as follows:

578 **§115-75.1. Purpose.**

579 The purpose of this district is to provide primarily for office, retail shopping and personal
580 service uses, to be developed either as a unit or on an individual parcel, to serve the needs of a
581 relatively small area, primarily nearby rural, low-density or medium density residential
582 neighborhoods. To enhance the general character of the district and its compatibility with its
583 residential surroundings, signs are limited to those accessory to businesses conducted on the
584 premises, and the number, area and type of signs are limited.

585 **§115-75.2. Permitted uses.**

586 **A. A building or land shall only be used for the following purposes:**

587 **AGRICULTURE-RELATED USES**

588 Greenhouse, commercial

589 Wholesale, retail, nurseries for sale of products produced on site

590

591 **RESIDENTIAL USES**

592 Bed and Breakfast (tourist homes)

593 Home Occupation

594 Hotel, motel or motor lodge

595

596 **SALES & RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT**

597 Convenience Store

598 Convenience Store, Fuel Station (1 to 6 fuel dispensers; no restrictions on nozzles)

599 Retail sales establishments 35,000 square feet or less

600 Pharmacy or related uses 35,000 square feet or less

601 Restaurant 7,500 square feet or less

602 Brew Pub 7,500 square feet or less

603

604 **OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE AND SIMILAR**

605 **ENTERPRISES NOT PRIMARILY RELATED TO GOODS**

606 Business service establishments

607 Bank

608 Professional Offices

609 Personal service establishments

610 Entertainment establishments 7,500 square feet or less

611 Social service establishments

612

613 **MANUFACTURING, ASSEMBLING, PROCESSING**

614 Winery, Brewery or Distillery under 7,500 square feet

615

616 **EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC**

617 **SOCIAL, FRATERNAL**

618 Recreational facility, commercial indoor and outdoor

619 Club, indoor, such as clubs, lodges, and other annual membership clubs

620 Places of worship

621

622 **INSTITUTIONAL, RESIDENCE CARE, CONFINEMENT**

623 **& MEDICAL FACILITIES**

624 Family day-care center (1-6 children)
625 Large family child care homes (7-12 children)
626 Early care and education and school-age centers (13+ children)
627 Residential child care facilities and day treatment programs
628 Child placing agencies
629 Medical clinic
630 Assisted living facility
631 Extended care facility
632 Intermediate care facility
633 Long-term care facility
634 Surgical Center
635 Fitness/wellness center
636 Museums, non-profit art galleries
637 Community centers
638
639 TRANSPORTATION RELATED SALES & SERVICE
640 Motor vehicle washes
641
642 STORAGE AND PARKING
643 Self storage facility
644
645 PUBLIC, SEMI-PUBLIC UTILITIES, EMERGENCY
646 Government facilities and services
647 Parks
648 Public safety facilities including fire, police, rescue and national security
649 Utility service facilities
650 Communication Towers
651 Recreational facility, government
652
653 NOT GROUPED ELSEWHERE
654 Cemeteries
655 Funeral home
656 Animal hospital and veterinary clinics
657 Temporary removable vendor stands, including but not limited to food trucks and similar
658 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
659 food, agricultural products or other food-related goods. Such temporary removable vendor
660 stands must comply with all of the following requirements:
661 1. No temporary removable vendor stand shall be permanently affixed to the
662 premises. All temporary removable vendor stands shall be fully transportable and moveable
663 within 24 hours.
664 2. There shall be no more than one temporary removable vendor stand on a parcel
665 at any one time.
666 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
667 longer than 45 feet.

668 4. No temporary removable vendor stand shall be permanently connected to any
669 utilities, including water, sewer, electric or gas.

670 5. No temporary removable vendor stand shall interfere with vehicular or pedestrian
671 movement on a parcel or adjacent rights of way.

672 6. The owner of a proposed temporary removable stand shall present the Director of
673 Planning and Zoning with written approval of the existence and location of the stand by the
674 property owner and a drawing showing the location of the stand upon the property. Upon
675 presentation of this information, the Director may preliminarily approve the stand or require the
676 owner to apply for a special use exception from the Board of Adjustment if there are concerns
677 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
678 properties or roadways, or other good cause.

679 7. If preliminarily approved, the owner of a proposed temporary removable stand
680 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
681 business license.

682 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
683 issued in a form established by the Director. This sticker shall be visible on the stand at all
684 times.

685 9. The approval of a temporary removable vendor stand shall be valid for one year.

686 10. The application for a temporary removable vendor stand shall be in a form
687 established by the Director. The fee for filing such an application shall be \$100.

688 B. Where, in the judgment of the Commission, a use is not specifically referenced but is
689 similar to those listed as permitted, it may be permitted by approval of the Commission.

690 **§115-75.3 Permitted Accessory Uses.**

691 Permitted accessory uses are as follows:

692 Residential within structure commercial or office uses

693 Home Occupation

694 Garage, public or commercial parking

695

696 **§115-75.4 Special Use Exceptions.**

697 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
700 provisions of Article XXVII of this Chapter, and may include:

701

702 A. Exceptions to parking and loading requirements, as follows:

703 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on
704 which parking areas are required by the parking regulations of Article XXII, where practical
705 difficulties, including the acquisition of property, or undue hardships are encountered in locating
706 such parking areas on the premises and where the purpose of these regulations to relieve
707 congestion in the streets would be best served by permitting such parking off the premises.
708

709 (2) Waiver or reduction of the parking and loading requirement in any district whenever the
710 character or use of the building is such as to make unnecessary the full provision of parking or
711 loading facilities.

712 (3) Waiver or reduction of loading space requirements where adequate community loading
713 facilities are provided.

714 (4) Waiver or reduction of loading space requirements for uses which contain less than
715 10,000 square feet of floor area where construction of existing buildings, problems of access or
716 size of lot make impractical the provision of required loading space.

717
718 **§ 115-75.5 Permitted signs.**

719 See Article XXI, §§ 115-159.4 for signs permitted in the B-2 District and other regulations
720 relating to signs.

721
722 **§ 115-75.6 Height, area and bulk requirements.**

723 A. Minimum lot sizes. Minimum lot sizes shall be as follows:

724

<u>Use</u>	<u>Minimum Area**</u> <u>(square feet)</u>	<u>Maximum Area**</u> <u>(square feet)</u>	<u>Width*</u> <u>(feet)</u>	<u>Depth</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>3,000</u>	<u>3 acres</u>	<u>30</u>	<u>100</u>

725
726 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
727 County of 1964, as revised, shall have a minimum lot width of 150 feet.

728
729 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
730 which is located within a planning area as defined by a sewer planning study approved by the
731 Sussex County Council, shall have a minimum area of 3/4 acre.

732
733 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
734 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
735 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

736
737

<u>Use</u>	<u>Depth of Front Yard</u> <u>(feet)</u>	<u>Width of Side Yard</u> <u>(feet)</u>	<u>Depth of Rear Yard</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>10</u>	<u>2</u>	<u>5</u>

738
739 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

740

<u>Use</u>	<u>Maximum Floor Area</u> <u>(square feet)</u>
<u>Permitted Uses</u>	<u>30,000</u>

741
742 D. Maximum height requirement. Maximum height requirements shall be as follows:

743

<u>Use</u>	<u>Feet</u>
<u>Permitted Uses</u>	<u>42</u>

744

745 **§ 115-75.7 Reference to additional regulations.**
746 *The regulations contained in this article are supplemented or modified by regulations contained*
747 *in other articles of this chapter, especially the following:*
748 *Article I, § 115-4, Definitions and word usage*
749 *Article XX, Tables*
750 *Article XXI, Signs*
751 *Article XXII, Off-Street Parking*
752 *Article XXIII, Off-Street Loading*
753 *Article XXV, Supplementary Regulations*
754 *Article XXVII, Board of Adjustment*
755
756

757 **Section 5.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
758 Article XB “B-3 Business Research” immediately after Article X “B-1 Neighborhood Business”
759 and the new Article XA “B-2 Business Community” as follows:

760 **§ 115-75.8 Purpose.**

761 *The purpose of this district to provide locations for a range of business research and business*
762 *park uses, including office and administrative uses, designed to be conducted wholly within*
763 *enclosed buildings.*

764
765 **§ 115-75.9 Permitted Uses.**

766
767 **A. A building or land shall be used only for the following purposes:**

768
769 **RESIDENTIAL USES**

770 *Hotel, motel or Motor Lodge*

771

772 **OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE AND SIMILAR**

773 **ENTERPRISES NOT PRIMARILY RELATED TO GOODS**

774 *Business service establishment*

775 *Banks*

776 *Professional offices*

777 *Personal service establishments*

778 *Social service establishments*

779

780 **MANUFACTURING, ASSEMBLING, PROCESSING**

781 *Manufacturing (no outdoor sales or storage)*

782

783 **EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC**

784 **SOCIAL, FRATERNAL**

785 *Places of worship*

786 *Biotech campus*

787 *Biotech industry*

788

789 INSTITUTIONAL, RESIDENCE, CARE,
790 CONFINEMENT AND MEDICAL FACILITIES
791 Early care and education and school-age centers (13 or more) children)
792 Child placing agencies
793 Medical clinic
794 Fitness/wellness center

795
796 STORAGE AND PARKING
797 Distribution center

798
799 PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY
800 Government facilities and services
801 Parks
802 Public safety facilities including ambulance, fire, police, rescue and national security
803 Recreational facility, government
804 Utility service facilities
805 Communication towers

806
807 NOT GROUPED ELSEWHERE
808 Technology centers

809 Temporary removable vendor stands, including but not limited to food trucks and similar
810 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
811 food, agricultural products or other food-related goods. Such temporary removable vendor
812 stands must comply with all of the following requirements:

813 1. No temporary removable vendor stand shall be permanently affixed to the
814 premises. All temporary removable vendor stands shall be fully transportable and moveable
815 within 24 hours.

816 2. There shall be no more than one temporary removable vendor stand on a parcel
817 at any one time.

818 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
819 longer than 45 feet.

820 4. No temporary removable vendor stand shall be permanently connected to any
821 utilities, including water, sewer, electric or gas.

822 5. No temporary removable vendor stand shall interfere with vehicular or pedestrian
823 movement on a parcel or adjacent rights of way.

824 6. The owner of a proposed temporary removable stand shall present the Director of
825 Planning and Zoning with written approval of the existence and location of the stand by the
826 property owner and a drawing showing the location of the stand upon the property. Upon
827 presentation of this information, the Director may preliminarily approve the stand or require the
828 owner to apply for a special use exception from the Board of Adjustment if there are concerns
829 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
830 properties or roadways, or other good cause.

831 7. If preliminarily approved, the owner of a proposed temporary removable stand
832 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
833 business license.

834 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
835 issued in a form established by the Director. This sticker shall be visible on the stand at all
836 times.

837 9. The approval of a temporary removable vendor stand shall be valid for one year.

838 10. The application for a temporary removable vendor stand shall be in a form
839 established by the Director. The fee for filing such an application shall be \$100.

840 B. Where, in the judgment of the Commission, a use is not specifically referenced but is
841 similar to those listed as permitted, it may be permitted by approval of the Commission.

842
843 C. 50% of the floor area may be for a limited number of auxiliary commercial uses that
844 typically support the office use. Restaurants are permitted as a stand-alone accessory use.
845

846 **§115-75.10 Permitted Accessory Uses.**

847
848 Permitted accessory uses are as follows:

- 849
850 Banks
851 Convenience store
852 Retail sales establishments 7,500 square feet or less
853 Pharmacy or related uses, 12,000 square feet or less
854 Restaurants 7,500 square feet or less
855 Brew pub, 7,500 square feet or less
856 Entertainment establishment
857 Garage, public or commercial parking
858 Hotel, motel or motor lodge
859
860

861 **§115-75.11 Special Use Exceptions.**

862 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
863 provisions of Article XXVII of this Chapter, and may include:

864
865 A. Exceptions to parking and loading requirements, as follows:

866 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on
867 which parking areas are required by the parking regulations of Article XXII, where practical
868 difficulties, including the acquisition of property, or undue hardships are encountered in locating
869 such parking areas on the premises and where the purpose of these regulations to relieve
870 congestion in the streets would be best served by permitting such parking off the premises.

871 (2) Waiver or reduction of the parking and loading requirement in any district whenever the
872 character or use of the building is such as to make unnecessary the full provision of parking or
873 loading facilities.

874 (3) Waiver or reduction of loading space requirements where adequate community loading
875 facilities are provided.

876 (4) Waiver or reduction of loading space requirements for uses which contain less than
877 10,000 square feet of floor area where construction of existing buildings, problems of access or
878 size of lot make impractical the provision of required loading space.

879
880
881 **§ 115-75.12 Permitted signs.**
882 See Article XXI, §§ 115-159.4 for signs permitted in the B-3 District and other regulations
883 relating to signs.

884
885 **§ 115-75.13 Height, area and bulk requirements.**
886 A. Minimum lot sizes. Minimum lot sizes shall be as follows:

887

<u>Use</u>	<u>Minimum Area**</u> <u>(square feet)</u>	<u>Maximum Area**</u> <u>(square feet)</u>	<u>Width*</u> <u>(feet)</u>	<u>Depth</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>--</u>	<u>--</u>	<u>75</u>	<u>100</u>
<u>Multifamily-type structure</u>	<u>(See Table II, included at the end of this chapter.)</u>			

888
889
890 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
891 County of 1964, as revised, shall have a minimum lot width of 150 feet.

892
893
894 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
895 which is located within a planning area as defined by a sewer planning study approved by the
896 Sussex County Council, shall have a minimum area of 3/4 acre.

897
898 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
899 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
900 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

901

<u>Use</u>	<u>Depth of Front Yard</u> <u>(feet)</u>	<u>Width of Side Yard</u> <u>(feet)</u>	<u>Depth of Rear Yard</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>40</u>	<u>10</u>	<u>10</u>

902
903 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

904

<u>Use</u>	<u>Maximum Floor Area</u> <u>(square feet)</u>
<u>Permitted Uses</u>	<u>--</u>

905
906 D. Maximum height requirement. Maximum height requirements shall be as follows:

907

<u>Use</u>	<u>Feet</u>
<u>Permitted Uses</u>	<u>42</u>

908

909 **§ 115-75.13 Reference to additional regulations.**

910

911 *The regulations contained in this article are supplemented or modified by regulations contained*
912 *in other articles of this chapter, especially the following:*

913 *Article I, § 115-4, Definitions and word usage*

914 *Article XX, Tables*

915 *Article XXI, Signs*

916 *Article XXII, Off-Street Parking*

917 *Article XXIII, Off-Street Loading*

918 *Article XXV, Supplementary Regulations*

919 *Article XXVII, Board of Adjustment*

920

921 **Section 6.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.10 “Reference to
922 additional regulations” is hereby amended by re-labeling the existing language as subsection
923 “A.” and adding a new subsection “B” thereafter as follows:

924 **§115-83.10 Reference to additional regulations.**

925 A. The regulations contained in this article are supplemented or modified by regulations
926 contained in other articles of this chapter, especially the following:

927 Article I, § 115-4, Definitions and word usage

928 Article XXI, Signs

929 Article XXII, Off-Street Parking

930 Article XXIII, Off-Street Loading

931 Article XXV, Supplementary Regulations

932 Article XXVII, Board of Adjustment

933

934 B. *Closed district. As of _____, the CR-1 Commercial Residential District shall*
935 *be considered a closed district and shall not be applied to any additional lands in Sussex County.*
936 *The district and its various provisions and regulations shall continue to exist as they apply to a*
937 *CR-1 District established under the procedures of this chapter.*

938

939 **Section 7.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
940 Article XIB “C-2 Medium Commercial” immediately after Article XIA “CR-1 Commercial
941 Residential District” as follows:

942 **§115-83.11 Purpose.**

943 *This District supports uses that include retail sales and performance of consumer services. It*
944 *permits a variety of retail, professional and services businesses. The district shall be primarily*
945 *located near arterial and collector streets. It accommodates community commercial uses that do*
946 *not have outside storage or sales.*

947 **§115-83.12 Permitted uses:**

948 A. *A building or land shall only be used for the following purposes or uses:*

949 **AGRICULTURAL RELATED USES**

950 Wholesale, retail, nurseries for sale of products produced on site
951
952 RESIDENTIAL USES
953 Bed & Breakfast (Tourist homes)
954 Hotel, motel or motor lodge
955
956 SALES AND RENTAL OF GOODS,
957 MERCHANDISE AND EQUIPMENT
958 Convenience store
959 Convenience store, fuel station (1 to 6 fuel dispensers; no restrictions on number of
960 nozzles)
961 Retail sales establishments 75,000 square feet or less
962 Pharmacy or related uses 35,000 square feet or less
963 Restaurants
964 Brew Pubs
965 Wholesale trade establishments
966
967 OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE
968 AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS
969 Business service establishments
970 Banks
971 Professional offices
972 Personal service establishments
973 Entertainment establishments
974 Social service establishments
975
976 MANUFACTURING, ASSEMBLING, PROCESSING
977 Winery, brewery or distillery under 7,500 square feet
978
979 EDUCATIONAL, CULTURAL, RELIGIOUS
980 PHILANTHROPIC, SOCIAL, FRATERNAL
981 Recreational facility (indoor)
982 Club indoor, private, such as clubs, lodges, and other annual membership clubs
983 Places of worship
984
985 INSTITUTIONAL, RESIDENCE, CARE
986 CONFINEMENT AND MEDICAL FACILITIES
987 Family day care center (1-6 children)
988 Large family child care homes (7-2 children)
989 Early care and education and school age centers (13+ children)
990 Residential child care facilities and day treatment programs
991 Child placing agencies
992 Medical clinics
993 Independent care facility
994 Assisted living facility
995 Extended care facility

- 996 Intermediate care facility
- 997 Long term care facility
- 998 Fitness/wellness center
- 999 Museums, non-profit art galleries
- 1000 Community centers

1001
1002 **STORAGE AND PARKING**

- 1003 Self-storage facility
- 1004 Warehouse

1005
1006 **PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY**

- 1007 Government facilities and services
- 1008 Parks
- 1009 Public safety facilities including ambulance, fire, police, rescue and national security
- 1010 Utility service facilities
- 1011 Communication towers
- 1012 Recreational facilities, government

1013
1014 **NOT GROUPED ELSEWHERE**

- 1015 Funeral home
- 1016 Animal hospital and veterinary clinics

1017
1018 B. Where, in the judgment of the Commission, a use is not specifically referenced but is
1019 similar to those listed as permitted, it may be permitted by approval of the Commission.

1020
1021 C. No outside storage or sales are permitted in this district.

1022
1023 **§115-83.13 Permitted Accessory Uses.**

1024
1025 Permitted accessory uses are as follows:

1026 Residential within structure commercial or business uses Garage, public or
1027 commercial parking

1028
1029 **§115-83.14 Special Use Exceptions.**

1030 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
1031 provisions of Article XXVII of this Chapter, and may include:

1032
1033 A. Exceptions to parking and loading requirements, as follows:

1034 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on
1035 which parking areas are required by the parking regulations of Article XXII, where practical
1036 difficulties, including the acquisition of property, or undue hardships are encountered in locating
1037 such parking areas on the premises and where the purpose of these regulations to relieve
1038 congestion in the streets would be best served by permitting such parking off the premises.

1039 (2) Waiver or reduction of the parking and loading requirement in any district whenever the
1040 character or use of the building is such as to make unnecessary the full provision of parking or
1041 loading facilities.

1042 (3) Waiver or reduction of loading space requirements where adequate community loading
1043 facilities are provided.

1044 (4) Waiver or reduction of loading space requirements for uses which contain less than
1045 10,000 square feet of floor area where construction of existing buildings, problems of access or
1046 size of lot make impractical the provision of required loading space.

1047
1048

1049 **§ 115-83.15 Permitted signs.**

1050 See Article XXI, §§ 115-159.5 for signs permitted in the C-2 District and other regulations
1051 relating to signs.

1052

1053 **§ 115-83.16 Height, area and bulk requirements.**

1054 A. Minimum lot sizes. Minimum lot sizes shall be as follows:

1055

<u>Use</u>	<u>Minimum Area**</u> <u>(square feet)</u>	<u>Maximum Area**</u> <u>(square feet)</u>	<u>Width*</u> <u>(feet)</u>	<u>Depth</u> <u>(feet)</u>
<u>All Permitted</u>	<u>15,000</u>	<u>--</u>	<u>75</u>	<u>100</u>

1056
1057

1058 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
1059 County of 1964, as revised, shall have a minimum lot width of 150 feet.

1060
1061

1062 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
1063 which is located within a planning area as defined by a sewer planning study approved by the
1064 Sussex County Council, shall have a minimum area of 3/4 acre.

1065

1066 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
1067 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
1068 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

1069

<u>Use</u>	<u>Depth of Front Yard</u> <u>(feet)</u>	<u>Width of Side Yard</u> <u>(feet)</u>	<u>Depth of Rear Yard</u> <u>(feet)</u>
<u>All Permitted</u>	<u>60</u>	<u>5</u>	<u>5</u>

1070
1071

1072 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

1073

<u>Use</u>	<u>Maximum Floor Area</u> <u>(square feet)</u>
<u>All Permitted</u>	<u>75,000</u>

1074

D. Maximum height requirement. Maximum height requirements shall be as follows:

1075

<u>Use</u>	<u>Feet</u>
<u>All Permitted</u>	<u>42</u>

1076

1077 **§ 115-83.17 Reference to additional regulations.**

1078 The regulations contained in this article are supplemented or modified by regulations contained

1079 in other articles of this chapter, especially the following:

1080 Article I, § 115-4, Definitions and word usage

1081 Article XX, Tables

1082 Article XXI, Signs

1083 Article XXII, Off-Street Parking

1084 Article XXIII, Off-Street Loading

1085 Article XXV, Supplementary Regulations

1086 Article XXVII, Board of Adjustment

1087

1088 **Section 8.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new

1089 Article XIC "C-3 Heavy Commercial" immediately after Article XIA "CR-1 Commercial

1090 Residential District" and new Article XIB "C-2 Medium Commercial" as follows:

1091 **§115-83.18 Purpose.**

1092 This district is generally intended for larger scale auto-oriented retail and service businesses

1093 along major arterial roads that serve local and regional residents as well as the travelling

1094 public. In addition to most commercial uses found in this zone, automobile, truck, recreational

1095 vehicle and boat sales, rental and major repair facilities may also be located in this district.

1096 **§115-83.19 Permitted uses.**

1097 A. A building or land shall only be used for the following purposes:

1098 AGRICULTURE-RELATED USES

1099 Greenhouse, commercial

1100 Wholesale, retail nurseries for sale of products produced on site.

1101

1102 RESIDENTIAL USES

1103 Hotel, motel or motor lodge

1104

1105 SALES & RENTAL OF GOODS,

1106 MERCHANDISE AND EQUIPMENT

1107 Convenience store, fuel station (no restrictions on fuel dispensers or nozzles)

1108 Retail sales establishments

1109 Pharmacy or related use

1110 Restaurants

1111 Brew pubs

1112 Wholesale trade establishment

1113

1114 OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE

1115 AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS

- 1116 Business service establishments
- 1117 Banks
- 1118 Professional offices
- 1119 Personal service establishments
- 1120 Entertainment establishments
- 1121 Social service establishments
- 1122
- 1123 MANUFACTURING, ASSEMBLING, PROCESSING
- 1124 Winery, brewery or distillery under 7500 square feet
- 1125
- 1126 EDUCATIONAL, CULTURAL, RELIGIOUS,
- 1127 PHILANTHROPIC, SOCIAL, FRATERNAL
- 1128 Recreation facility, commercial (indoor and outdoor)
- 1129 Club, indoor, such as clubs, lodges, and other annual membership clubs
- 1130 Places of worship
- 1131
- 1132 INSTITUTIONAL, RESIDENCE, CARE
- 1133 CONFINEMENT & MEDICAL FACILITIES
- 1134 Family child care center (1-6 children)
- 1135 Large family child care homes (7-12 children)
- 1136 Early care and education and school-age centers (13+ children)
- 1137 Residential child care facilities and day treatment programs
- 1138 Child placing agencies
- 1139 Medical clinic
- 1140 Independent care facility
- 1141 Assisted living facility
- 1142 Extended care facility
- 1143 Intermediate care facility
- 1144 Long-term care facility
- 1145 Surgical center
- 1146 Fitness/wellness center
- 1147 Museums, non-profit art galleries
- 1148 Community centers
- 1149
- 1150 TRANSPORTATION-RELATED SALES AND SERVICE
- 1151 Motor and non-motor vehicle sales, rental repair, service and storage
- 1152 Motor vehicle washes
- 1153
- 1154 STORAGE AND PARKING
- 1155 Distribution centers
- 1156 Self-storage facility
- 1157 Warehouse
- 1158
- 1159 PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY
- 1160 Government facilities and services
- 1161 Parks

1162 Public safety facilities including ambulance, fire, police rescue and national security
1163 Utility service facilities
1164 Communication towers
1165 Recreational facilities government
1166

1167 NOT GROUPED ELSEWHERE

1168 Commercial kennels, provided that no open runs, kennels or cages are located within
1169 200 feet of land that is used or zoned residential and 50 feet from a property line

1170 Animal hospital or veterinary clinic

1171 Temporary removable vendor stands, including but not limited to food trucks and similar
1172 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
1173 food, agricultural products or other food-related goods. Such temporary removable vendor
1174 stands must comply with all of the following requirements:

1175 1. No temporary removable vendor stand shall be permanently affixed to the
1176 premises. All temporary removable vendor stands shall be fully transportable and moveable
1177 within 24 hours.

1178 2. There shall be no more than one temporary removable vendor stand on a parcel
1179 at any one time.

1180 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
1181 longer than 45 feet.

1182 4. No temporary removable vendor stand shall be permanently connected to any
1183 utilities, including water, sewer, electric or gas.

1184 5.. No temporary removable vendor stand shall interfere with vehicular or pedestrian
1185 movement on a parcel or adjacent rights of way.

1186 6. The owner of a proposed temporary removable stand shall present the Director of
1187 Planning and Zoning with written approval of the existence and location of the stand by the
1188 property owner and a drawing showing the location of the stand upon the property. Upon
1189 presentation of this information, the Director may preliminarily approve the stand or require the
1190 owner to apply for a special use exception from the Board of Adjustment if there are concerns
1191 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
1192 properties or roadways, or other good cause.

1193 7. If preliminarily approved, the owner of a proposed temporary removable stand
1194 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
1195 business license.

1196 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
1197 issued in a form established by the Director. This sticker shall be visible on the stand at all
1198 times.

1199 9. The approval of a temporary removable vendor stand shall be valid for one year.

1200 10. The application for a temporary removable vendor stand shall be in a form
1201 established by the Director. The fee for filing such an application shall be \$100.

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B. Where, in the judgment of the Commission, a use is not specifically referenced but is similar to those listed as permitted, it may be permitted by approval of the Commission.

§115-83.20 Permitted Accessory Uses.

Permitted accessory uses are as follows:

Residential within structure commercial or office uses

Garage, public or commercial parking

§115-83.21 Special Use Exceptions.

Special use exceptions may be permitted by the Board of Adjustment and in accordance with the provisions of Article XXVII of this Chapter, and may include:

A. Exceptions to parking and loading requirements, as follows:

(1) Off street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

(2) Waiver or reduction of the parking and loading requirement in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

(3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.

(4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.

§ 115-83.22 Permitted signs.

See Article XXI, §§ 115-159.5 for signs permitted in the C-3 District and other regulations relating to signs.

§ 115-83.23 Height, area and bulk requirements.

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

<u>Use</u>	<u>Minimum Area** (square feet)</u>	<u>Maximum Area** (square feet)</u>	<u>Width* (feet)</u>	<u>Depth (feet)</u>
<u>Other</u>	<u>1 acre</u>	<u>--</u>	<u>75</u>	<u>100</u>

*NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet.

1244 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
1245 which is located within a planning area as defined by a sewer planning study approved by the
1246 Sussex County Council, shall have a minimum area of 3/4 acre.

1247
1248 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
1249 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
1250 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

<u>Use</u>	<u>Depth of Front Yard</u> <u>(feet)</u>	<u>Width of Side Yard</u> <u>(feet)</u>	<u>Depth of Rear Yard</u> <u>(feet)</u>
<u>Permitted Use</u>	<u>60</u>	<u>5</u>	<u>5</u>

1251
1252 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:
1253

<u>Use</u>	<u>Maximum Floor Area</u> <u>(square feet)</u>
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<u>Permitted Use</u>	<u>150,000</u>
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1254 D. Maximum height requirement. Maximum height requirements shall be as follows:

<u>Use</u>	<u>Feet</u>
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<u>Permitted Use</u>	<u>42</u>
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1256
1257 § 115-83.24 Reference to additional regulations.

1258 The regulations contained in this article are supplemented or modified by regulations contained
1259 in other articles of this chapter, especially the following:

1260 Article I, § 115-4, Definitions and word usage

1261 Article XX, Tables

1262 Article XXI, Signs

1263 Article XXII, Off-Street Parking

1264 Article XXIII, Off-Street Loading

1265 Article XXV, Supplementary Regulations

1266 Article XXVII, Board of Adjustment

1267
1268 **Section 9.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
1269 Article XID “C-4 Planned Commercial” immediately after Article XIA “CR-1 Commercial
1270 Residential District” and new Article XIB “C-2 Medium Commercial” and Article XIC “C-3
1271 Heavy Commercial” as follows:

1272 § 115-83.25 Purpose.

1273 In order to encourage carefully planned large-scale commercial, retail, and mixed use
1274 developments as a means of creating a superior shopping, working and living environment

1275 through unified developments, and to provide for the application of design ingenuity while
1276 protecting existing and future developments and achieving the goals of the Comprehensive Plan.

1277

1278 **§ 115-83.26 Minimum district requirements.**

1279

1280 A. The land area shall have access to an existing or planned arterial or collector road;

1281 B. The land area shall be served by adequate existing or planned infrastructure;

1282 C. The land areas may contain a single parcel or multiple parcels;

1283 D. The land need not be under single ownership, provided that proper assurances are given,
1284 through the procedures contained in this section or elsewhere in these regulations, that the
1285 project can be successfully completed and maintained.

1286 E. The parcel may have a maximum of 20% of its development be duplex, townhouse, or
1287 multifamily dwellings.

1288 F. Site plan review requirements.

1289 (1) A Planned Commercial District will be permitted only in accordance with a
1290 development plan approved by County Council in accordance with the requirements and
1291 procedures contained in this section.

1292 (2) The development plan shall display the requirements identified in § 115-220,
1293 Preliminary site plan requirements. The development plan shall also include:

1294 [a] Land use plan or plans showing location and arrangement of all proposed
1295 land uses, heights of buildings, setbacks and side yards, proposed internal and
1296 external traffic circulation (including widths, driveways and access), pedestrian
1297 circulation, proposed open space dedications and easements.

1298 [b] General landscaping and screening plan showing general types, location and
1299 design of landscaping and screening.

1300 [c] A tabular summary of percentage of site devoted to buildings, open space,
1301 streets and parking areas, and total floor area of all nonresidential structures.

1302 [d] Plan showing proposed generalized parking arrangements.

1303 [e] Architectural sketches of typical proposed structures and typical landscaping
1304 and screening areas.

1305 [f] A plan or report indicating the extent, timing and estimate costs of all off-site
1306 improvements such as roads, sewer and drainage facilities necessary to the
1307 construction of the planned development. Such plan or report shall relate to the
1308 sequence of development.

1309 [g] A report or plan showing the adequacy of public facilities and services such
1310 as water, sewer drainage, streets and roads to serve the proposed development.

1311 [h] General plan for sedimentation and erosion control and stormwater
1312 management.

1313 (3) Upon approval of the Preliminary Plan, the applicant shall submit the final plans
1314 displaying the requirements identified in § 115-221, Final Site Plan requirements.

1315 (4) To further the intent of the district to provide an integrated master plan setting for
1316 uses in the Planned Commercial Development District, the developmnt shall be designed
1317 in accordance with the following:

1318 [a] Designed as an integrated and comprehensively planned area and using a
1319 common parking area, shared ingress and egress, pedestrian walkways, open
1320 space, stormwater management facilities and water and wastewater utilities.

1321 [b] Internal access streets should be provided to serve large scale retail uses).
1322 Individual access points for individual uses onto an existing collector or arterial
1323 roadway shall not be permitted. Interconnectivity with adjacent parcels shall be
1324 required.

1325 [c] The landscaping plan provides a continuous landscape pattern throughout the
1326 entire site. An overall landscape plan for the entire site shall be provided that
1327 provides for this continuity but also allows for flexibility as specific buildings and
1328 accessory uses are located within the site.

1329 [d] To the maximum extent feasible, any provision of utilities, including but not
1330 limited to water, wastewater, storm drainage and stormwater management
1331 facilities shall be provided in a coordinated fashion to address the ultimate needs
1332 of the entire site.

1333

1334 **§115-83.27 Permitted uses.**

1335

1336 A. A building or land shall be used only for the following purposes:

1337

1338 AGRICULTURE RELATED USES

1339 Wholesale, retail, nurseries for sale or products produced on site

1340

1341 RESIDENTIAL USES

1342 Dwelling, duplex

1343 Dwelling, multi-family

1344 Dwelling, single family

1345 Dwelling, townhouses

1346 Home occupation

1347 Hotel, motel or motor lodge

1348

1349 SALES & RENTAL OF GOODS,

1350 MERCHANDISE AND EQUIPMENT

1351 Convenience store

1352 Convenience store, fuel station (no restrictions on fuel dispensers or nozzles)

1353 Retail sales establishments

1354 Pharmacy or related use

1355

1356 Restaurants

1357 Brew Pub

1358 Wholesale trade establishment

1359

1360 OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE

1361 AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS

1362 Business service establishments

1363 Banks

1364 Professional offices

1365 Personal service establishments

1366 Entertainment establishments

- 1367 Social service establishments
- 1368
- 1369 MANUFACTURING, ASSEMBLING, PROCESSING
- 1370 Winery, Brewery or Distillery under 7,500 square feet
- 1371
- 1372 EDUCATIONAL, CULTURAL, RELIGIOUS,
- 1373 PHILANTHROPIC, SOCIAL, FRATERNAL
- 1374 Recreational facility, private, public or commercial, indoor or outdoor
- 1375 Club indoor, private such as clubs, lodges and other annual membership clubs
- 1376 Aquariums, commercial
- 1377 Places of worship
- 1378
- 1379 INSTITUTIONAL, RESIDENCE, CARE
- 1380 CONFINEMENT AND MEDICAL FACILITIES
- 1381 Family child day care center (1-6 children)
- 1382 Large family child care homes (7-12 children)
- 1383 Early care and education and school-age child centers (13+ children)
- 1384 Residential child care facilities and day treatment programs
- 1385 Child placement agencies
- 1386 Medical clinics
- 1387 Independent care facility
- 1388 Assisted living facility
- 1389 Extended care facility
- 1390 Intermediate care facility
- 1391 Long-term care facility
- 1392 Graduate care facility
- 1393 Surgical center
- 1394 Fitness/wellness center
- 1395 Museums, non-profit art galleries
- 1396 Community centers
- 1397
- 1398 TRANSPORTATION-RELATED SALES AND SERVICE
- 1399 Motor and non-motor vehicle sales, rental repair, service and storage
- 1400 Motor vehicle washes
- 1401
- 1402 STORAGE AND PARKING
- 1403 Garage,
- 1404 Self-storage facilities
- 1405 Warehouses
- 1406
- 1407 PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY
- 1408 Government facilities and services
- 1409 Parks
- 1410 Public safety facilities including ambulance, fire, police rescue and national security
- 1411 Utility service facilities
- 1412 Communication towers

1413 Recreational facility government

1414

1415 NOT GROUPED ELSEWHERE

1416 Technology centers

1417 Temporary removable vendor stands, including but not limited to food trucks and similar
1418 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
1419 food, agricultural products or other food-related goods. Such temporary removable vendor
1420 stands must comply with all of the following requirements:

1421 1. No temporary removable vendor stand shall be permanently affixed to the
1422 premises. All temporary removable vendor stands shall be fully transportable and moveable
1423 within 24 hours.

1424 2. There shall be no more than one temporary removable vendor stand on a parcel
1425 at any one time.

1426 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
1427 longer than 45 feet.

1428 4. No temporary removable vendor stand shall be permanently connected to any
1429 utilities, including water, sewer, electric or gas.

1430 5. No temporary removable vendor stand shall interfere with vehicular or pedestrian
1431 movement on a parcel or adjacent rights of way.

1432 6. The owner of a proposed temporary removable stand shall present the Director of
1433 Planning and Zoning with written approval of the existence and location of the stand by the
1434 property owner and a drawing showing the location of the stand upon the property. Upon
1435 presentation of this information, the Director may preliminarily approve the stand or require the
1436 owner to apply for a special use exception from the Board of Adjustment if there are concerns
1437 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
1438 properties or roadways, or other good cause.

1439 7. If preliminarily approved, the owner of a proposed temporary removable stand
1440 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
1441 business license.

1442 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
1443 issued in a form established by the Director. This sticker shall be visible on the stand at all
1444 times.

1445 9. The approval of a temporary removable vendor stand shall be valid for one year.

1446 10. The application for a temporary removable vendor stand shall be in a form
1447 established by the Director. The fee for filing such an application shall be \$100.

1448

1449 B. Where, in the judgment of the Commission, a use is not specifically referenced but is
1450 similar to those listed as permitted, it may be permitted by approval of the Commission.

1451

1452 §115-83.28 Permitted Accessory Uses.

1453
1454 Permitted accessory uses are as follows:
1455 Greenhouses, commercial
1456 Residential within structure commercial or office uses

1457
1458 **§115-83.29 Special Use Exceptions.**

1459 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
1460 provisions of Article XXVII of this Chapter, and may include:

1461
1462 A. Exceptions to parking and loading requirements, as follows:

1463 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on
1464 which parking areas are required by the parking regulations of Article XXII, where practical
1465 difficulties, including the acquisition of property, or undue hardships are encountered in locating
1466 such parking areas on the premises and where the purpose of these regulations to relieve
1467 congestion in the streets would be best served by permitting such parking off the premises.

1468 (2) Waiver or reduction of the parking and loading requirement in any district whenever the
1469 character or use of the building is such as to make unnecessary the full provision of parking or
1470 loading facilities.

1471 (3) Waiver or reduction of loading space requirements where adequate community loading
1472 facilities are provided.

1473 (4) Waiver or reduction of loading space requirements for uses which contain less than
1474 10,000 square feet of floor area where construction of existing buildings, problems of access or
1475 size of lot make impractical the provision of required loading space.

1476
1477 **§ 115-83.30 Permitted signs.**

1478 See Article XXI, §§ 115-159.5 for signs permitted in the C-4 District and other regulations
1479 relating to signs.

1480
1481 **§ 115-83.31 Height, area and bulk requirements.**

1482 A. Minimum lot sizes. Minimum lot sizes shall be as follows:

1483

<u>Use</u>	<u>Minimum Area**</u> <u>(square feet)</u>	<u>Maximum Area**</u> <u>(square feet)</u>	<u>Width*</u> <u>(feet)</u>	<u>Depth</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>3 acres</u>	<u>--</u>	<u>75</u>	<u>100</u>

1484
1485 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
1486 County of 1964, as revised, shall have a minimum lot width of 150 feet.

1487
1488 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
1489 which is located within a planning area as defined by a sewer planning study approved by the
1490 Sussex County Council, shall have a minimum area of 3/4 acre.

1491
1492 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
1493 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
1494 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

1495

<u>Use</u>	<u>Depth of Front Yard (feet)</u>	<u>Width of Side Yard (feet)</u>	<u>Depth of Rear Yard (feet)</u>
<u>Permitted Uses</u>	<u>60</u>	<u>5</u>	<u>5</u>
<u>Multifamily-type structure</u>	<u>(See Table II, included at the end of this chapter.)</u>		

1496
1497 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:
1498

<u>Use</u>	<u>Maximum Floor Area (square feet)</u>
<u>Permitted Uses</u>	--

1499
1500 D. Maximum height requirement. Maximum height requirements shall be as follows:
1501

<u>Use</u>	<u>Feet</u>
<u>Permitted Uses</u>	<u>42</u>

1502
1503 **§ 115-83.32 Reference to additional regulations.**
1504 The regulations contained in this article are supplemented or modified by regulations contained
1505 in other articles of this chapter, especially the following:
1506 Article I, § 115-4, Definitions and word usage
1507 Article XX, Tables
1508 Article XXI, Signs
1509 Article XXII, Off-Street Parking
1510 Article XXIII, Off-Street Loading
1511 Article XXV, Supplementary Regulations
1512 Article XXVII, Board of Adjustment
1513

1514 **Section 10.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
1515 Article XIE “C-5 Service/Limited Manufacturing” immediately after Article XIA “CR-1
1516 Commercial Residential District” and new Article XIB “C-2 Medium Commercial”, Article XIC
1517 “C-3 Heavy Commercial” and Article XID “C-4Planned Commercial” as follows:

1518 **§ 115-83.33 Purpose.**

1519 The Service/Limited Manufacturing District is designed to maintain and facilitate the growth and
1520 expansion of small scale light industrial, wholesale distribution and personal service. Use
1521 permitted in this district must have a retail component.

1522
1523 **§ 115-83.34 Permitted uses.**

1524 A. A building or land shall be used only for the following purposes:

- 1525
1526 AGRICULTURE-RELATED USES
1527 Agriculture-related businesses
1528 Agriculture uses (less than 5 acres) farm, truck garden, orchard or nursery uses
1529 Aquaculture
1530 Greenhouse, commercial
1531 Wholesale, retail, nurseries for sale of products produced on site
1532
1533 SALES & RENTAL OF GOODS
1534 MERCHANDISE AND EQUIPMENT
1535 Wholesale trade establishments
1536
1537 OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE
1538 AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS
1539 Business service establishments
1540 Professional offices
1541 Personal service establishments
1542
1543 MANUFACTURING, ASSEMBLING, PROCESSING
1544 Winery, brewery or distillery
1545 Manufacturing
1546 Material Storage Yard, with on-site mulching, pulping or manufacturing of material
1547
1548 EDUCATIONAL, CULTURAL, RELIGIOUS,
1549 PHILANTHROPIC, SOCIAL FRATERNAL
1550 Places of worship
1551
1552 TRANSPORTATION-RELATED SALES & SERVICE
1553 Motor and non-motor vehicle sales, rental repair, service and storage
1554
1555 STORAGE AND PARKING
1556 Distribution centers
1557 Self-storage facility
1558 Warehouse
1559
1560 PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY
1561 Public safety facilities including ambulance, fire, police, rescue and national security
1562 Utility service facilities
1563 Communication towers
1564
1565 NOT GROUPED ELSEWHERE
1566 Commercial kennels, provided that no open pens, runs, kennels or cages are located
1567 within 200 feet of land that is used or zoned residential and 50 feet from any property
1568 line.
1569 Technology center

1570 Temporary removable vendor stands, including but not limited to food trucks and similar
1571 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
1572 food, agricultural products or other food-related goods. Such temporary removable vendor
1573 stands must comply with all of the following requirements:

1574 1. No temporary removable vendor stand shall be permanently affixed to the
1575 premises. All temporary removable vendor stands shall be fully transportable and moveable
1576 within 24 hours.

1577 2. There shall be no more than one temporary removable vendor stand on a parcel
1578 at any one time.

1579 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
1580 longer than 45 feet.

1581 4. No temporary removable vendor stand shall be permanently connected to any
1582 utilities, including water, sewer, electric or gas.

1583 5. No temporary removable vendor stand shall interfere with vehicular or pedestrian
1584 movement on a parcel or adjacent rights of way.

1585 6. The owner of a proposed temporary removable stand shall present the Director of
1586 Planning and Zoning with written approval of the existence and location of the stand by the
1587 property owner and a drawing showing the location of the stand upon the property. Upon
1588 presentation of this information, the Director may preliminarily approve the stand or require the
1589 owner to apply for a special use exception from the Board of Adjustment if there are concerns
1590 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
1591 properties or roadways, or other good cause.

1592 7. If preliminarily approved, the owner of a proposed temporary removable stand
1593 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
1594 business license.

1595 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
1596 issued in a form established by the Director. This sticker shall be visible on the stand at all
1597 times.

1598 9. The approval of a temporary removable vendor stand shall be valid for one year.

1599 10. The application for a temporary removable vendor stand shall be in a form
1600 established by the Director. The fee for filing such an application shall be \$100.

1601
1602 **§115-83.35 Permitted Accessory Uses.**

1603
1604 Permitted accessory uses are as follows:
1605 Garage, public or commercial parking

1606
1607 **§115-83.36 Special Use Exceptions.**

1608 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
1609 provisions of Article XXVII of this Chapter, and may include:

1610
 1611 Exceptions to parking and loading requirements, as follows:
 1612 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on
 1613 which parking areas are required by the parking regulations of Article XXII, where practical
 1614 difficulties, including the acquisition of property, or undue hardships are encountered in locating
 1615 such parking areas on the premises and where the purpose of these regulations to relieve
 1616 congestion in the streets would be best served by permitting such parking off the premises.
 1617 (2) Waiver or reduction of the parking and loading requirement in any district whenever the
 1618 character or use of the building is such as to make unnecessary the full provision of parking or
 1619 loading facilities.
 1620 (3) Waiver or reduction of loading space requirements where adequate community loading
 1621 facilities are provided.
 1622 (4) Waiver or reduction of loading space requirements for uses which contain less than
 1623 10,000 square feet of floor area where construction of existing buildings, problems of access or
 1624 size of lot make impractical the provision of required loading space.

1625
 1626 Off-premises signs, subject to the provisions of § 115-81A(2)
 1627
 1628

1629 **§ 115-83.37 Permitted signs.**

1630 See Article XXI, §§ 115-159.5 for signs permitted in the C-5 District and other regulations
 1631 relating to signs.
 1632

1633 **§ 115-83.38 Height, area and bulk requirements.**

1634 A. Minimum lot sizes. Minimum lot sizes shall be as follows:
 1635

<u>Use</u>	<u>Minimum Area**</u> <u>(square feet)</u>	<u>Maximum Area**</u> <u>(square feet)</u>	<u>Width*</u> <u>(feet)</u>	<u>Depth</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>15,000</u>	<u>--</u>	<u>75</u>	<u>100</u>

1636
 1637 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
 1638 County of 1964, as revised, shall have a minimum lot width of 150 feet.
 1639

1640 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
 1641 which is located within a planning area as defined by a sewer planning study approved by the
 1642 Sussex County Council, shall have a minimum area of 3/4 acre.
 1643

1644 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
 1645 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
 1646 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:
 1647

<u>Use</u>	<u>Depth of Front Yard</u> <u>(feet)</u>	<u>Width of Side Yard</u> <u>(feet)</u>	<u>Depth of Rear Yard</u> <u>(feet)</u>
<u>Permitted Uses</u>	<u>60</u>	<u>10</u>	<u>10</u>

1648
 1649 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

1650	<u>Permitted Uses</u>	<u>Maximum Floor Area</u>
		<u>(square feet)</u>
	<u>Other</u>	<u>50,000</u>

1651
 1652 D. Maximum height requirement. Maximum height requirements shall be as follows:
 1653

<u>Use</u>	<u>Feet</u>
<u>Permitted Uses</u>	<u>42</u>

1654 **§ 115-83.39 Reference to additional regulations.**

1655 The regulations contained in this article are supplemented or modified by regulations contained
 1656 in other articles of this chapter, especially the following:

- 1657 Article I, § 115-4, Definitions and word usage
- 1658 Article XX, Tables
- 1659 Article XXI, Signs
- 1660 Article XXII, Off-Street Parking
- 1661 Article XXIII, Off-Street Loading
- 1662 Article XXV, Supplementary Regulations
- 1663 Article XXVII, Board of Adjustment
- 1664

1665 **Section 11.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
 1666 Article XIF “I-1 Institutional” immediately after Article XIA “CR-1 Commercial Residential
 1667 District” and new Article XIB “C-2 Medium Commercial”, Article XIC “C-3 Heavy
 1668 Commercial”, Article XID “C-4 Planned Commercial” and “C-5 Service/Limited
 1669 Manufacturing” as follows:

1670 **§ 115-83.40 Purpose.**

1671 The purpose of this district is to recognize the public, quasi-public, and institutional nature of
 1672 particular parcels of land and provide standards and guidelines for their continued use and
 1673 future development; and to ensure that the public, quasi-public, and institutional structures and
 1674 developments in the district will be compatible with surrounding districts and uses.

1675 **§ 115-83.41. Permitted uses.**

1676 A. A building or land shall be used only for the following purposes:
 1677

- 1678 Bio tech campus
- 1679 Bio tech industry
- 1680 Social service establishments
- 1681 Education institutions, public and private
- 1682 Places of worship
- 1683 Early care and education and school-age centers (13+ children)
- 1684 Residential child care facilities and day treatment programs
- 1685 Child placing agencies
- 1686 Hospitals

1687 Medical clinics
1688 Independent care facilities
1689 Assisted living facilities
1690 Intermediate care facilities
1691 Extended care facilities
1692 Long term care facilities
1693 Graduate care facilities
1694 Surgical center
1695 Fitness/wellness center
1696 Museums, nonprofit art galleries
1697 Community centers
1698 Government facilities and services
1699 Parks
1700 Public safety facilities including ambulance, fire, police, rescue and national security
1701 Utility service facilities
1702 Communication towers
1703 Recreational facilities, government
1704 Cemeteries
1705 Funeral homes
1706 Animal hospitals and veterinary clinics
1707 Technology centers
1708 Temporary removable vendor stands, including but not limited to food trucks and similar
1709 vehicles or trailers, located on the premises between March 15 and November 15 for the sale of
1710 food, agricultural products or other food-related goods. Such temporary removable vendor
1711 stands must comply with all of the following requirements:

1712 1. No temporary removable vendor stand shall be permanently affixed to the
1713 premises. All temporary removable vendor stands shall be fully transportable and moveable
1714 within 24 hours.

1715 2. There shall be no more than one temporary removable vendor stand on a parcel
1716 at any one time.

1717 3. No temporary removable vendor stand shall be wider than 8 feet 6 inch nor
1718 longer than 45 feet.

1719 4. No temporary removable vendor stand shall be permanently connected to any
1720 utilities, including water, sewer, electric or gas.

1721 5. No temporary removable vendor stand shall interfere with vehicular or pedestrian
1722 movement on a parcel or adjacent rights of way.

1723 6. The owner of a proposed temporary removable stand shall present the Director of
1724 Planning and Zoning with written approval of the existence and location of the stand by the
1725 property owner and a drawing showing the location of the stand upon the property. Upon
1726 presentation of this information, the Director may preliminarily approve the stand or require the
1727 owner to apply for a special use exception from the Board of Adjustment if there are concerns
1728 about the location, the size of the property, the effect(s) upon on-site parking, neighboring
1729 properties or roadways, or other good cause.

1730 7. If preliminarily approved, the owner of a proposed temporary removable stand
1731 shall present the Director of Planning and Zoning with evidence of a current State of Delaware
1732 business license.

1733 8. Upon approval by the Director, a Sussex County Vendor Stand sticker shall be
1734 issued in a form established by the Director. This sticker shall be visible on the stand at all
1735 times.

1736 9. The approval of a temporary removable vendor stand shall be valid for one year.

1737 10. The application for a temporary removable vendor stand shall be in a form
1738 established by the Director. The fee for filing such an application shall be \$100.

1739
1740

1741 B. Where, in the judgment of the Commission, a use is not specifically referenced but is similar
1742 to those listed as permitted; it may be permitted by approval of the Commission.

1743

1744 **115-83.42 Permitted Accessory Uses.**

1745

1746 Permitted accessory uses are as follows:

1747 Garage, public or commercial parking

1748

1749 **§ 115-83.43 Special use exceptions.**

1750 Special use exceptions may be permitted by the Board of Adjustment and in accordance with the
1751 provisions of Article XXVII of this chapter and may include:

1752

1753 Exceptions to parking and loading requirements, as follows:

1754 (1) Off street parking areas, adjacent to or at a reasonable distance from the premises on which
1755 parking areas are required by the parking regulations of Article XXII, where practical
1756 difficulties, including the acquisition of property, or undue hardships are encountered in locating
1757 such parking areas on the premises and where the purpose of these regulations to relieve
1758 congestion in the streets would best be served by permitting such parking off the premises.

1759 (2) Waiver or reduction of the parking and loading requirements in any district whenever the
1760 character or use of the building is such as to make unnecessary the full provision of parking or
1761 loading facilities.

1762 (3) Waiver or reduction of loading space requirements where adequate community loading
1763 facilities are provided.

1764 (4) Waiver or reduction of loading space requirements for uses which contain less than 10,000
1765 square feet of floor area where construction of existing buildings, problems of access or size of
1766 lot make impractical the provision of required loading space.

1767

1768 **§ 115-83.44 Permitted signs.**

1769 See Article XXI, §§ 115-159.5 for signs permitted in the I-1 District and other regulations
1770 relating to signs.

1771

1772 **§ 115-83.45 Height, area and bulk requirements.**

1773 A. Minimum lot sizes. Minimum lot sizes shall be as follows:

1774

<u>Use</u>	<u>Minimum Area** (square feet)</u>	<u>Maximum Area** (square feet)</u>	<u>Width* (feet)</u>	<u>Depth (feet)</u>
<u>Permitted Uses</u>	--	--	<u>75</u>	<u>100</u>

1775

1776 *NOTE: A lot fronting on a numbered road shown on the General Highway Map for Sussex
1777 County of 1964, as revised, shall have a minimum lot width of 150 feet.

1778

1779 **NOTE: Any lot which is not connected to a central sewer system, as defined by § 115-194A, or
1780 which is located within a planning area as defined by a sewer planning study approved by the
1781 Sussex County Council, shall have a minimum area of 3/4 acre.

1782

1783 B. Minimum yard requirements. Minimum yard requirements shall be as follows, except that, in
1784 addition, the requirements relating to minimum buffers and setbacks contained in § 115-194.1E
1785 of this Code shall apply to all uses other than single-family dwellings and multifamily structures:

1786

<u>Use</u>	<u>Depth of Front Yard (feet)</u>	<u>Width of Side Yard (feet)</u>	<u>Depth of Rear Yard (feet)</u>
<u>Other</u>	<u>60</u>	<u>10</u>	<u>10</u>

1787

1788

1789 C. Maximum floor area requirement. Maximum floor area requirements shall be as follows:

1790

<u>Use</u>	<u>Maximum Floor Area (square feet)</u>
<u>Other</u>	--

1791

1792 D. Maximum height requirement. Maximum height requirements shall be as follows:

1793

<u>Use</u>	<u>Feet</u>
<u>Single Family Dwelling</u>	<u>42</u>
<u>Other</u>	<u>42</u>

1794

1795 **§ 115-83.46 Reference to additional regulations.**

1796

1797 The regulations contained in this article are supplemented or modified by regulations contained
1798 in other articles of this chapter, especially the following:

1799 Article I, § 115-4, Definitions and word usage

1800 Article XX, Tables

1801 Article XXI, Signs

1802 Article XXII, Off-Street Parking

1803 Article XXIII, Off-Street Loading

1804 Article XXV, Supplementary Regulations

1805 Article XXVII, Board of Adjustment

1806

1807 **Section 12.** The Code of Sussex County, Chapter 115, Article XXI, §115-156 “Tables of
1808 height, area and bulk requirements” is hereby amended by renaming the Section “Tables”, by
1809 deleting the items in brackets and inserting the italicized and underlined language in subsection
1810 B. therein, and by adding a new subsection C. therein as follows:

1811 **§115-156 Tables [of height, area and bulk requirements].**

1812 . . .

1813 B. The height, area and bulk requirements for multifamily structures when permitted in the
1814 MR, GR, UR, UB, M and C-1, CR-1, C-2, C-3, C-4 and C-5 Districts (as may be applicable)
1815 shall be as set forth in Table II and in the B-1 [and CR-1], B-2 and B-3 Districts(as may be
1816 applicable) shall be as set forth in Table III.

1817 C. The list of Permitted Uses within the B-2, B-3 C-2, C-3, C-4 and C-5 Districts shall be as
1818 set forth in Table IV. In the event of any discrepancy between the information set forth in Table
1819 IV and text of Chapter 115, Articles XA, XB, XIB, XIC, XID, XIE and XIF, the text of those
1820 Articles shall be controlling.

1821

1822 **Section 13.** The Code of Sussex County, Chapter 115, Article XX, §115-159.4 “Signs
1823 permitted in B-1 Neighborhood Business Districts, M Marine Districts and UB Urban Business
1824 Districts” is hereby amended by adding “B-2 Business Community Districts” and “B-3 Business
1825 Research Districts” in the title as follows:

1826 **§115-159.4 Signs permitted in B-1 Neighborhood Business Districts, B-2 Business**
1827 **Community Districts, B-3 Business Research Districts, M Marine Districts and UB Urban**
1828 **Business Districts.**

1829

1830 **Section 14.** The Code of Sussex County, Chapter 115, Article XXI, §115-159.5 “Signs
1831 permitted in C-1 General Commercial, CR-1 Commercial Residential, LI-1 Limited Industrial,
1832 and HI-1 Heavy Industrial Districtsis hereby amended by adding “C-2 Medium Commercial, C-3
1833 Heavy Commercial, C-4 Planned Commercial, C-5 Service Limited Manufacturing and I-1
1834 Institutional” in the title and by inserting the italicized and underlined language in subpart B.
1835 thereof as follows:

1836 **§115-159.5 Signs permitted in C-1 General Commercial, CR-1 Commercial Residential,**
1837 **C-2 Medium Commercial, C-3 Heavy Commercial, C-4 Planned Commercial, C-5 Service**
1838 **Limited Manufacturing, I-1 Institutional, LI-1 Limited Industrial, and HI-1 Heavy**
1839 **Industrial Districts.**

1840 . . .

1841 B. Off premises signs in the C-1 General Commercial, CR-Commercial Residential, C-3 Heavy
1842 Commercial, C-4 Planned Commercial, C-5 Service Limited Manufacturing,LI-1 (Light
1843 Industrial) and HI-1 (Heavy Industrial) Districts, and only after obtaining a special use
1844 exception, pursuant to §115-80C and provided that:

1845

1846

1847 **Section 15.** The Code of Sussex County, Chapter 115, Article XXI, §115-161.1 “Electronic
1848 message centers” is hereby amended by inserting the italicized and underlined language is
1849 subparts A. and B. thereof as follows:

1850 **§115-161.1 Electronic message centers.**

1851 A. On premises electronic message centers:

1852 (1) In the B-1 (Neighborhood Business), B-2 (Business Community), B-3 (Business
1853 Research), M (Marine) and UB (Urban Business) Districts, the ground sign permitted in
1854 §115-159.4A(4) may be an on-premises electronic message center, provided that only
1855 one on-premises ground sign, whether it is a static sign or an electronic message center, is
1856 permitted per street or road frontage per parcel and that the sign area shall not exceed 200
1857 square feet per side. In addition, the on-premises signs permitted in §115-159.4A(5) may
1858 be electronic message centers.

1859 (2) In the C-1 (General Commercial), CR-1 (Commercial Residential), C-2 (Medium
1860 Commercial), C-3 Heavy Commercial), C-4 (Planned Commercial), C-5 (Service/Limited
1861 Manufacturing) and I-1 (Institutional) Districts, the ground sign permitted in §115-
1862 159.5A(4) may be an on-premises electronic message center, provided that only one on-
1863 premises ground sign, whether it is a static sign or an electronic message center, is
1864 permitted per street or road frontage per parcel and that the sign area shall not exceed 200
1865 square feet per side. In addition, the on-premises signs permitted in §115-159.5A(5) may
1866 be electronic message centers.

1867 . . .

1868 B. Off-premises electronic message centers:

1869 (1) In the C-1 (General Commercial), CR-1 (Commercial Residential), C-3 Heavy
1870 Commercial), C-4 (Planned Commercial), C-5 (Service/Limited Manufacturing), LI-1
1871 (Limited Industrial), LI-2 (Light Industrial) and HI-1 (Heavy Industrial) Districts, an off-
1872 premises sign may be an electronic message center, provided that the owner obtains a
1873 special use exception pursuant to §115-80C and complies with the regulations for off-
1874 premises signs pursuant to §115-159.5.

1875

1876

1877 **Section 16.** The Code of Sussex County, Chapter 115, Article XXIII, §115-170.1 “Screening
1878 of loading areas” is hereby amended by inserting the italicized and underlined language in the
1879 introductory paragraph as follows:

1880 **§115-170.1 Screening of loading areas.**

1881 In addition to the other requirements of this article, the following requirements relating to
1882 screening of loading areas shall apply in the large-scale uses C-1 General Commercial District,
1883 the large scale uses CR-1 Commercial Residential District, the C-3 Heavy Commercial District,

1884 the C-4 Planned Commercial District, and the C-5 Service/Limited Manufacturing District for
1885 nonresidential development.

1886

1887

1888 **Section 17.** The Code of Sussex County, Chapter 115, Article XXV, §115-180 “Lot area” is
1889 hereby amended by inserting the italicized and underlined language in subsection C. therein as
1890 follows:

1891 **§115-180 Lot area.**

1892 . . .

1893 C. In a C-1, CR-1, B-2, B-3, C-2, C-3, or C-4 District, an M District and a UB District, the
1894 requirements of lot area per family do not apply to rental units in a hotel, motel or motor lodge,
1895 tourist home or rooms in a rooming, boarding- or lodging house.

1896

1897 **Section 18.** The Code of Sussex County, Chapter 115, Article XXV, §115-194.1 “Combined
1898 Highway Corridor Overlay Zone (CHCOZ)” is hereby amended by inserting the italicized and
1899 underlined language in subsection E.(3). therein as follows:

1900 **§115-194.1 Combined Highway Corridor Overlay Zone (CHCOZ).**

1901 . . .

1902 E. Minimum buffer and setback requirements.

1903 . . .

1904 (3) Setbacks and buffers will be required for all developments in the CHCOZ District in
1905 accordance with the following table:

District	Setback (feet)	Buffer (feet)
AR-1 Agricultural Residential	40	20
AR-2 Agricultural Residential	40	20
MR Medium Density Residential	40	20
GR General Residential	40	20
HR-1 High-Density Residential	60	20
HR-2 High Density Residential	60	20
B-1 Neighborhood Business	60	20
<u>B-2 Business Community</u>	<u>60</u>	<u>20</u>
<u>B-3 Business Research</u>	<u>60</u>	<u>20</u>
C-1 General Commercial	60	20
CR-1 Commercial Residential	60	20
<u>C-2 Medium Commercial</u>	<u>60</u>	<u>20</u>
<u>C-3 Heavy Commercial</u>	<u>60</u>	<u>20</u>
<u>C-4 Planned Commercial</u>	<u>60</u>	<u>20</u>

1922	<i>C-5 Service/Limited Manufacturing</i>	60	20
1923	<i>I-1 Institutional</i>	60	20
1924	M Marine	60	20
1925	LI-1 Limited Industrial	60	20
1926	LI-2 Light Industrial	60	20
1927	HI-1 Heavy Industrial	60	20
1928			

1929

1930

1931 **Section 19.** The Code of Sussex County, Chapter 115, Article XXVIII, §115-218 “Procedure
 1932 for RPC District and conditional use site plan approval” is hereby amended by inserting “C-4
 1933 Planned Commercial District” into the Title and inserting the italicized and underlined language
 1934 therein as follows:

1935 **§115-218 “Procedure for RPC District, C-4 Planned Commercial District and conditional**
 1936 **use site plan approval.**

1937 Where the provisions of this chapter require the submittal of site plans for RPC Districts, C-4
 1938 Planned Commercial Districts and conditional uses, the following schedule of procedure shall
 1939 apply:

1940 . . .

1941 F. A preliminary site plan for an RPC or a Planned Commercial District shall be valid for
 1942 the period of time set forth in §99-9B of Chapter 99, Subdivision of Land. A final site plan for
 1943 an RPC or a Planned Commercial District shall be valid for the period of time set forth in §99-
 1944 40A of Chapter 99, Subdivision of Land. An extension of these time periods may be sought in
 1945 accordance with §99-40F.

1946

1947 **Section 20.** The Code of Sussex County, Chapter 115, is hereby amended by amending the
 1948 heading of “115 Attachment 3, Sussex County Table III” by inserting the italicized and
 1949 underlined language therein as follows:

1950

1951 **115 Attachment 3**

1952 **Sussex County**

1953 **Table III**

1954 **Table of Height, Area and Bulk Requirements for Multifamily Structures**
 1955 **When Permitted in B-1, B-2, [and] CR-1, C-2, C-3 and C-5 Districts**

1956

1957

1958 **Section 21.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new
 1959 “115 Attachment 4, Sussex County Table IV” as said Table is attached hereto as Exhibit A.

1960 *See Exhibit A, attached hereto and incorporated herein.*

1961

1962 **Section 22.** Effective Date.

1963 This Ordinance shall take effect _____ days from the date of adoption by County
1964 Council.

1965

PROPOSED

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ZONING

115 Attachment 4

Sussex County

TABLE IV

Permitted Uses Commercial
Sussex County

Blank =Not permitted P =Permitted use SUE =Special use Exception, see Sec. ** A =Permitted Accessory Use, see Sec. ** D = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Agriculture-Related Uses							
Agriculture-Related Business						P ²	
Agricultural Uses (less than 5 acres) Farm, Truck Garden, Orchard or Nursery Uses						P ²	
Aquaculture						P ²	
Greenhouse, commercial	D	P		P	A	P	
Wholesale, retail, nurseries for sale of products produced on site	D	P	P ¹	P	P	P ²	
Residential Uses							
Residential within structure commercial or office uses	A		A	A ³	A ^{4,5}		
Bed & Breakfast (Tourist Homes)	D	P	P				
Dwelling, Duplex	D				P ^{4,5}		
Dwelling, Manufactured Home	D						
Dwelling, Multi-family	D				P ^{4,5}		
Dwelling, Single Family Detached, including Modular	D				P ^{4,5}		
Dwelling, Townhouse	D				P ^{4,5}		
Home Occupation	D	A			P		
Hotel, motel or motor lodge	D	P	P	P	P		
Sales & Rental of Goods, Merchandise, and Equipment							
Convenience store	D	P	A	P ¹	P	P	
Convenience store , Fuel Station (1 to 6 fuel dispensers)(no restriction on number of nozzles)		P		P ¹	P	P	
Convenience store , Fuel Station (7 or more fuel dispensers) (no restriction on number of nozzles)				P	P		
Retail sales establishments 3,500 SF or less	D	P	A	P ¹	P	P	P
Retail sales establishments 3,501 SF to 7,500 SF	D	P	A	P ¹	P	P	P
Retail sales establishments 7,501 SF to 35,000 SF	D	P		P ¹	P	P	
Retail sales establishments 35,001 SF to 75,000 SF	D			P ¹	P	P	

Blank =Not permitted P =Permitted use SUE =Special use Exception, see Sec. ** A =Permitted Accessory Use, see Sec. ** D = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Retail sales establishments 75,001 SF or more	D			P	P		
Pharmacy or related uses, 12,000 SF or less	D	P	A	P ¹	P ¹	P	
Pharmacy or related uses, 12,001 SF to 35,000 SF	D	P		P ¹	P ¹	P	
Restaurant 3,500 SF or less		P	A	P ¹	P	P	P ²
Restaurant 3501 SF to 7,500 SF	D	P	A	P ¹	P	P	P ²
Restaurant 7,501 SF or more	D			P ¹	P	P	
Brew Pub 7,500 SF or less		P	A	P ¹	P	P	
Brew Pub 7,501 SF or more				P ¹	P	P	
Wholesale trade establishment	D			P ¹	P	P	P ²
Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods							
Business service establishments	D	P	P	P ¹	P	P	P ²
Banks		P	P	P ¹	P	P	
Professional Offices	D	P	P	P ¹	P	P	P ²
Personal service establishments	D	P	P	P ¹	P	P	P ²
Entertainment establishments 7,500 SF or less	D	P	A	P ¹	P	P	
Entertainment establishments more than 7,501 SF	D		A	P ¹	P	P	
Social service establishments	D	P	P	P ¹	P	P	P
Manufacturing, Assembling, Processing							
Winery, Brewery or Distillery under 7500 SF	D	P		P ¹	P ¹	P ¹	P ²
Winery, Brewery or Distillery over 7501 SF							P ²
Manufacturing	D		P ¹				P ²
Material Storage Yard w/ on-site mulching, pulping or manufacturing of material	D						P ²
Educational, Cultural, Religious, Philanthropic, Social, Fraternal							
Bio Tech Campus	D		P				P
Biotech Industry	D		P ¹				P ¹
Recreational Facility, Private	D					P	
Recreational Facility, Commercial (Indoor Only)	D	P		P	P	P	
Recreational Facility, Commercial (Indoor & Outdoor)	D	P			P	P	
Club Indoor, private such as clubs, lodges, and other annual membership clubs	D	P		P	P	P	
Aquariums, commercial						P	
Educational institutions, public and private	D						P

Blank =Not permitted P =Permitted use SUE =Special use Exception, see Sec. ** A =Permitted Accessory Use, see Sec. ** D = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Places of worship	D	P	P	P	P	P	P
Institutional, Residence, Care, Confinement & Medical Facilities							
Family Child Day care center (1-6 children)	D	P		P	P	P	
Large Family Child Care Homes (7-12 children)	D	P		P	P	P	
Early Care and Education and school-Age Centers (13 or more children)	D	P	P	P	P	P	P
Residential Child Care Facilities and Day Treatment Programs	D	P		P	P	P	P
Child Placing Agencies	D	P	P	P	P	P	P
Hospital	D						P
Medical clinic	D	P	P	P	P	P	P
Independent Care Facility	D			P	P	P	P
Assisted Living Facility	D	P		P	P	P	P
Extended Care Facility	D	P		P	P	P	P
Intermediate Care Facility	D	P		P	P	P	P
Long-term Care Facility	D	P		P	P	P	P
Graduate Care Facility						P	P
Surgical center	D	P			P	P	P
Fitness / wellness center		P	P	P ¹	P	P	P
Museums, Non-profit art galleries	D	P		P ¹	P	P	P
Community Centers	D	P		P ¹	P	P	P
Transportation-Related Sales & Service							
Motor & non-motor vehicle sales, rental, repair, service and storage					P	P	P ²
Motor-vehicle washes		P			P	P	
Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration							
Storage & Parking							
Distribution center	D		P		P		P ²
Garage, public or commercial parking		A	A	A	A	P	A
Self-storage facility	D	P		P ¹	P	P	P ²
Warehouse	D			P ¹	P	P	P ²
Public, Semi-Public, Utilities, Emergency							
Government facilities and services, local	D	P	P	P ¹	P	P	P
Government facilities and services, non-local	D	P	P	P ¹	P	P	P

Blank =Not permitted P =Permitted use SUE =Special use Exception, see Sec. ** A =Permitted Accessory Use, see Sec. ** D = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Parks	P	P	P ¹	P	P		P
Public safety facilities including, ambulance, fire, police, rescue, and national security	D	P	P ¹	P	P	P	P
Utility service facilities	D	P	P ¹	P	P	P	P
Communication Towers	P	P	P	P	P	P	P ¹
Recreational Facility, Government	D	P	P ¹	P	P		P
Not Grouped Elsewhere							
Off-Premise Signs				SUE	SUE	SUE	
Cemeteries	P						P
Funeral home	P		P ¹				P
Commercial kennels, provided that no open pens, runs, kennels or cages are located within 200 feet of land that is used or zoned residential and 50 feet from any property line)				P ¹		P ¹	
Animal Hospital and Veterinary clinics	P		P ¹	P			P ¹
Technology Center		P			P	P	P
Temporary Removable Vendor Stands	P	P		P	P	P	P

8
9 **Note: Where, in the judgment of the Commission, a use is not specifically referenced but is similar to those**
10 **listed as permitted, it may be permitted by approval of the Commission.**

11 P Permitted Use

12 ¹ No outdoor sales and or storage permitted

13 ² Uses permitted only with an on-site retail component

14 ³ Mixed use building must consist of at least 25% commercial space

15 ⁴ Residential uses within the C-4 district shall not exceed 12 units per acre or exceed floor area ratio maximums

16 ⁵ Residential uses within the C-4 district when developed must be a minimum of 25% of the total square

17 footage and not exceeding 50% of the total square footage of the parcel or site

18 A Use permitted as the accessory use of the parcel

19 SUE – Special Use Exception - Only permitted by Board of Adjustment
20

ORDINANCE NO. __

AN ORDINANCE TO ADD A NEW CHAPTER 117 TO SUSSEX COUNTY CODE ENTITLED “LABOR UNIONS” TO PROHIBIT CERTAIN UNION MATTERS IN PRIVATE SECTOR EMPLOYMENT, INCLUDING PROHIBITION OF MANDATORY UNION MEMBERSHIP AND PAYMENT OF UNION DUES OR FEES AS CONDITION OF EMPLOYMENT; INVOLUNTARY UNION PAY DEDUCTIONS; AND ACTS OF COERCION RELATED TO UNION SUPPORT OR MEMBERSHIP.

WHEREAS, pursuant to Title 9 Section 7001(a) of the Delaware Code the Delaware General Assembly has granted to Sussex County all of the powers of the State that are not specifically prohibited by statute; and

WHEREAS, it is the intent of this Ordinance to provide that no employee covered by the National Labor Relations Act be required to join or pay dues to a union, or refrain from joining a union, as a condition of employment; and

WHEREAS, the County Council desires to promote economic development and worker freedom within all of Sussex County, directly and in cooperation with public and private entities promoting Sussex County and its resources, its people, and its many geographical and cultural advantages; and

WHEREAS, Sussex County and its residents compete for the expansion of employment opportunities with other cities, counties, and states (including states such as Michigan, Kentucky, Indiana, and a majority of the other states in the U.S.) whose citizens benefit from the protection under similar right to work legislation, and Sussex County desires to compete on a level playing field with other cities, counties, and states that have enacted such right to work legislation; and

WHEREAS, the County Council believes that right to work legislation is not “anti-union” legislation, but actually could lead to a healthier, more robust unions who freely compete for employee membership; and

WHEREAS, the County Council of Sussex County hereby finds and determines that it is in the best interest of the citizens of Sussex County to promote and encourage direct commerce for the protection and convenience of the public, by giving employees freedom to choose employment without restraint or coercion regarding the payment of mandatory dues, fees, or other payments to a labor organization as a condition of that employment; and

WHEREAS, the County Council believes that the goals of the foregoing can be furthered through the passage of this Ordinance and amending the County Code as provided for herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County is hereby amended by adopting a new Chapter 117, entitled “Labor Unions” with the following sections to be inserted in Chapter 117 as follows in this Ordinance.

Section 2. The Code of Sussex County is hereby amended by adopting a new §117-1, entitled “Declaration of public policy,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-1 Declaration of public policy.

It is hereby declared to be the public policy of Sussex County in order to ensure individual freedom of choice in the pursuit of employment, for the protection and convenience of its citizens who desire the broadest choice of employment opportunities, to permit its citizens to choose to increase their real take home pay by decreasing mandatory payroll deductions in order to stimulate savings and economic growth, and to encourage an employment climate conducive to the economic development of Sussex County, including recruiting new businesses to Sussex County, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.”

Section 3. The Code of Sussex County is hereby amended by adopting a new §117-2, entitled “Terms,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-2 Terms.

The terms “employee,” “employer,” “labor organization,” and “person” as used in this chapter shall have the same meanings as defined by the National Labor Relations Act.”

Section 4. The Code of Sussex County is hereby amended by adopting a new §117-3, entitled “Freedom of choice guaranteed, discrimination prohibited,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-3 Freedom of choice guaranteed, discrimination prohibited.

No person covered by the National Labor Relations Act in Sussex County shall be required as a condition of employment or continuation of employment:

- A. to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;**
- B. to become or remain a member of a labor organization;**
- C. to pay any dues, fees, assessments or other charges of any kind or amount to a labor organization; or**

- D. to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments or other charges regularly required of members of a labor organization.”

Section 5. The Code of Sussex County is hereby amended by adopting a new §117-4, entitled “Voluntary deductions protected,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-4 Voluntary deductions protected.

It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer, with the following exception:

- A. If the written authorization on its face clearly states that it is irrevocable for a period of up to one year after its effective date, that shall be the maximum period of time an employee is prohibited from ceasing payroll deductions;
- B. Notwithstanding the foregoing, an employee’s express choice to revoke his/her authorization is to be given effect as soon as the period of irrevocability passes.”

Section 6. The Code of Sussex County is hereby amended by adopting a new §117-5, entitled “Agreements in violation, and actions to induce such agreements, declared illegal,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-5 Agreements in violation, and actions to induce such agreements, declared illegal.

Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as guaranteed by provisions of this chapter is hereby declared unlawful, null and void and of no legal force or effect.”

Section 7. The Code of Sussex County is hereby amended by adopting a new §117-6, entitled “Coercion and intimidation prohibited,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-6 Coercion and intimidation prohibited.

It shall be unlawful for any person, labor organization or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee’s or prospective employee’s parents, spouse, children, grandchildren or any other persons residing in the employee’s or prospective employee’s home, or by any damage or threatened damage to an employee’s or prospective employee’s property, to compel or attempt to compel such employee to join, affiliate with or financially support a labor organization or to refrain from doing

so, or otherwise to forfeit any rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.”

Section 8. The Code of Sussex County is hereby amended by adopting a new §117-7, entitled “Penalties,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-7 Penalties.

- A. Any person who shall violate a provision of this chapter or any of its subsections and/or fails to comply with any notice of violation shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of \$250 for the first conviction; \$500 for the second conviction; \$1,000 for the third conviction; and for the fourth and any subsequent conviction of the same violation that has still not been corrected, the fine for such conviction shall be \$2,500. The fines specified herein for the second through fourth convictions shall not be suspended. Upon conviction of a first violation of this chapter, the court may order the defendant to correct the violation by a certain date, not to exceed 10 days from the date of the conviction. Jurisdiction over the enforcement of this provision shall be in the Justice of the Peace Courts of the State of Delaware.
- B. In addition to prosecuting a violator in the Justice of the Peace Courts, the prosecuting County employee is authorized, but is not required, to institute appropriate proceedings at law or in equity to restrain, correct, abate or enjoin a violation or to require the removal of the offending condition at the expense of the person who is found to be in violation of these provisions. If the County prevails, the Court shall order the violator to pay the County's reasonable attorney's fees and costs of the action.
- C. The penalties set forth in this section shall not affect the County’s right to also recover expenses incurred pursuant to this chapter.”

Section 9. The Code of Sussex County is hereby amended by adopting a new §117-8, entitled “Civil remedies,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-8 Civil remedies.

Any individual harmed as a result of any violation or threatened violation of the provisions of this chapter shall have the right to pursue in a court of competent jurisdiction a civil cause of action to enjoin further violations and to recover the damages sustained, together with the cost of the lawsuit, including reasonable attorneys’ fees. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.”

Section 10. The Code of Sussex County is hereby amended by adopting a new §117-9, entitled “Duty to investigate,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-9 Duty to investigate.

It shall be the duty of the County Administrator, or his/her designee, to investigate complaints of violation or threatened violations of this chapter and to take all means at his/her command to ensure the effective enforcement of this chapter.”

Section 11. The Code of Sussex County is hereby amended by adopting a new §117-10, entitled “Prospective application,” into the new Chapter 117 by inserting the underlined language as follows:

“§ 117-10 Prospective application.

The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter by employers or labor organizations covering employees within this County and shall apply to any renewal or extension of any such contract.”

Section 12. **Severability.** If any provision of this chapter, or application thereof to any person, entity or circumstances, shall be invalid or unenforceable to any extent, the remainder of this chapter, and the application of such provision to other persons, entities or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 13. **When effective.** This chapter shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

Synopsis

This Ordinance amends Sussex County Code to insert a new Chapter 117 to prohibit certain matters related to labor unions for Sussex County employees and employers in the private sector. The Ordinance prohibits mandatory union membership or payment of certain union fees, involuntary union pay deductions, and acts of coercion or intimidation related to union support or payment.

No text has been deleted. All new text is underlined and in quotations.