



Sussex County Council Public/Media Packet

**MEETING:
September 18, 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
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Sussex County Council

AGENDA

SEPTEMBER 18, 2018

10:00 A.M.

**AMENDED on September 14, 2018 at 4:30 P.M.¹

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Consent Agenda

1. Wastewater Agreement No. 1042-3
Sussex County Project No. 81-04
Truitt Homestead – Phase 2 (Construction Record)
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District
2. Wastewater Agreement No. 1011-3
Sussex County Project No. 81-04
Saddle Ridge – Phase 2
Goslee Creek Planning Area

Todd Lawson, County Administrator

1. Discussion of a response to the Delaware Coalition for Open Government
2. Administrator's Report

Joe Thomas, Director of Emergency Operations

1. Sussex Fire & Ambulance Companies – Radio Issue



Megan Nehrbas, GIS Manager

1. Online Map Presentation

Hans Medlarz, County Engineer

1. Herring Creek Area Expansion of the Unified Sanitary Sewer District – Phase III
 - A. Approval of USDA Loan Resolution, Phase III
 - B. Discussion and Possible Introduction of a Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,601,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”
2. James Farm Master Plan Implementation, Cedar Neck Road Entrance, Project C19-02A
 - A. Bid Award Recommendation

John Ashman, Director of Utility Planning

1. Plantation Road Expansion of the Sussex County Unified Sanitary Sewer District
 - A. Request to Post Notices

Old Business

1. Conditional Use No. 2127 filed on behalf of Wine Worx, LLC
2. “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM “SPECIAL EVENTS” AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS”

Continuation of Public Hearing

“AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS”

Introduction of Proposed Zoning Ordinances

Council Members' Comments

****Executive Session – Pending/Potential Litigation and Land Acquisition pursuant to 29 Del. C. §10004(b)**

Possible Action on Executive Session Items

1:30 p.m. Buffer Workshop with the Planning and Zoning Commission

Sussex County's West Complex Conference Room

Adjourn

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 11, 2018 at 5:45 p.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.

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¹ Per 29 Del. C. § 10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended to include Land Acquisition under Executive Session. The agenda amendment was required to discuss a matter which arose after the initial posting of the agenda but before the start of the Council meeting.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 11, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 11, 2018, 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

A Moment of Silence was observed on the 17th anniversary of the 9/11 terrorist attacks in New York City, Washington D.C. and Shanksville, Pennsylvania.

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 482 18
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 21, 2018 were approved by consent.

**Corre-
spondence**

Correspondence

**REHOBOTH SUMMER CHILDRENS THEATRE, REHOBOTH BEACH,
DELAWARE.
RE: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Paul Reiger referenced definitions in County Code and specifically *assisted living facilities*. He also referenced a recent application for an assisted living facility and discussed why the application should have been brought to the Planning and Zoning Commission instead of the Board of Adjustment.

**Public
Comments
(continued)**

Dan Kramer referenced an Old Business matter, Conditional Use No. 2129, and commented on the advertisement for that application.

Virginia Weller commented on the process of establishing a water district in the Town of Ellendale.

Keith Steck commented on the operations of the Board of Adjustment and the Sussex County Council's oversight of that Board.

**League
of Women
Voters
Annual
Report**

Ms. BR Breen, Observer Corps Coordinator for the League of Women Voters of Sussex County, presented the League's Annual Report (Sunshine Report) to the Sussex County Council. As part of the League of Women Voters' support for openness in government, its Observer Corps monitors the activities of governmental bodies for issues of importance to the League and to the County. The Observer Corps has completed its ninth year of activity; observers attended County Council and Planning and Zoning Commission meetings.

Highlights and observations referenced: (1) citizen participation, access and right to know; (2) clarification in County procedures, policies and ordinances; (3) land use decisions; and (4) 2018 Comprehensive Plan. The report also noted concerns as well as compliments to the County/staff.

Ms. Breen presented copies of the report to the Council.

**M 483 18
Approve
Consent
Agenda
Items**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

- 1. Wastewater Agreement No. 667-4
Sussex County Project No. 81-04
Dove Landing – Phase 1A
Millville Expansion of the Bethany Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 667-5
Sussex County Project No. 81-04
Dove Landing – Phase 1BC
Millville Expansion of the Bethany Beach Sanitary Sewer District**
- 3. Wastewater Agreement No. 638-18
Sussex County Project No. 81-04
The Estuary – Phase 1C-3A (Construction Record)
Miller Creek Sanitary Sewer District**
- 4. Wastewater Agreement No. 1053-5
Sussex County Project No. 81-04
Belle Terre – Pump Station
Goslee Creek Planning Area**

**M 483 18
(continued)**

Motion Adopted: 5 Yeas.

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

**Third
Quarter
Employee
Recogni-
tion
Awards**

Mrs. Jennings reported that the County recognizes employees for exceptional service and that a total of sixty-one (61) employees received recognition for the Third Quarter of 2018. Mrs. Jennings announced that four employees received special recognition for the Third Quarter of 2018. Alan Shields (Constables Office) was selected to receive the Third Quarter Customer Service Award, and three employees received Honorable Mention: John Sapp (Constables Office) and Robin Marvel and Lorri Bradley (Emergency Medical Services).

**Public
Hearing/
Proposed
Buffer
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS”.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission deferred action again.

Janelle Cornwell, Planning and Zoning Director, reported that 75 letters/emails have been received in support of the Proposed Ordinance and 9 letters/emails have been received expressing concern or in opposition to the Proposed Ordinance.

Mr. Burton stated that the County currently has a 20 foot buffer ordinance around all subdivisions and the Proposed Ordinance would change that to 40 foot; that the County currently allows the open space calculation to include the 20 foot buffer and the Proposed Ordinance does not change that; that the County currently allows the density calculation to be included in the buffer and the Proposed Ordinance does not change that; that the Proposed Ordinance encourages the preservation of existing trees by allowing them to be used in a planting calculation; that the Proposed Ordinance adds to the planting calculation due to its additional 20 feet; that the Proposed Ordinance does not change the ability to adjust the 40 feet under circumstances that cannot be controlled; that the Proposed Ordinance creates buffers and buffers add to the quality of life; that buffers do a myriad of things and help in the following ways: tree line creates rural look of area, they give natural habitat a place to live, air quality, natural beauty, quality developments, impervious surfaces, etc.

Vince Robertson, Assistant County Attorney, reviewed what the Proposed Ordinance will do: expands the width of buffers; increases the buffer from 20 feet to 40 feet; currently in the Code there is a requirement for 15 trees staggered every 100 feet – the Proposed Ordinance will increase that to 25

**Public
Hearing/
Proposed
Buffer
Ordinance
(continued)**

trees; and promotes the maintenance of existing vegetation. It was noted that the requirements of the Proposed Ordinance will apply to major subdivisions (5 lots or more); RPCs will also be affected since RPCs follows the Subdivision Code.

Public comments were heard.

The following spoke in support of the Proposed Ordinance: Richard Holtkamp and Richard Borasso representing SARG, Sue Claire Harper (League of Women Voters of Sussex County), James LaBella, Thomas Haug, Regina Willoughby, Dave Carey, Karen Connelly, Babette Daley, Carol Pala, Amma vonLindenberg, Robert Tunnell III, and Paul Reiger. Comments in support referenced that it is time for an update to the buffer ordinance; that there is no shortage of land in Sussex County; that increasing the buffer between subdivisions will maintain and enhance the rural character of the County; that increased buffers will improve the overall landscaped outlook of developments; that there are benefits to protecting and preserving buffers with established trees; that trees provide protection during weather events; that it will provide more privacy and security between subdivisions; that it will add value to land and home ownership; that more trees are needed to offset impervious surfaces; that buffers are good for watershed protection, habitat protection, wildlife corridors, and recreational trails; and that it will set a higher standard of development in the County.

Some stated that they are not in opposition but recommending that a workshop be held and/or bring together a working group. In addition, one person spoke, not in opposition, but stated that details in the Proposed Ordinance need to be changed to make buffers more manageable for homeowners associations and specific guidelines established. It was stated that increased buffers are also needed between private residences bordering new development.

The following expressed concerns and spoke in opposition to the Proposed Ordinance: Robert Harris, R. C. Willin, Merritt Burke on behalf of SCAOR, Ring Lardner on behalf of ACEC, Bobby Horsey, James Baxter IV representing the Sussex County Farm Bureau, Dan Kramer, and Robert Thornton. Comments in opposition to the Proposed Ordinance referenced that a 20 foot buffer is more than adequate for a visual buffer; that it will become an 80 foot buffer (40 foot on each side); that it will be a burden to maintain the larger buffers, i.e. accessibility and use of equipment; that buffer maintenance costs will increase; that animal control will become a problem; that weather will have an impact on the buffers, i.e. downed trees and power lines; that there is concern about drainage and the size of trees; that larger buffers will add to developers' costs; that increased buffers will diminish density; that increased buffers will negatively impact property rights and property values; and that it will negatively impact affordable housing.

**Public Hearing/
Proposed Buffer Ordinance (continued)**

It was noted that the membership of the Sussex County Farm Bureau is in opposition to the Proposed Ordinance. It was also noted that the timing of holding a public hearing on this Proposed Ordinance is bad since it is harvest time for farmers (and also due to the impending storm/hurricane) and that many farmers that would have liked to attend this Public Hearing were unable to.

Suggestions were made to gather stakeholders (during winter months) to discuss the Proposed Ordinance.

**M 484 18
Leave Public Hearing Record Open/
Proposed Buffer Ordinance**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to leave open/continue the Public Hearing for one week on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS" including the public record thereby allowing people to speak at the continuation of the Public Hearing on September 18, 2018 (only if they did not speak at the Public Hearing on September 11, 2018); written comments will also be accepted during the one week time period.

Motion Adopted: 5 Yeas.

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

Annual CTP Presentation

Janelle Cornwell, Planning and Zoning Director, presented an update on the annual Capital Transportation Program (CTP) request. She noted that this is the annual process the County performs for consideration by DelDOT for transportation projects throughout the County. The County solicited comments from the public for projects to be conserved as part of the 2020 – 2025 CTP. Ms. Cornwell noted that the CTP request has a new format; this year's request includes a table of the projects requested to be included in the CTP. She also noted that the Draft request includes items that were included in the draft 2018 Comprehensive Plan, previous requests, and new requests. Drew Boyce of DelDOT presented information on how the County's requests are received and where projects are in the current and proposed CTP. Mr. Boyce discussed funding revenues, uses of funds, expenditures by County, CTP project progression and development and next steps. A public meeting will be held in Sussex County on September 26, 2018 for the public to provide comment on the CTP. DelDOT will continue to take public comments until October 8, 2018.

A discussion was held regarding prioritization of the County's proposed projects. Ms. Cornwell noted that this is still a draft request and changes can be made. Mr. Boyce discussed the statewide prioritization process.

**M 485 18
Recess**

At 1:14 p.m., a Motion was made by Mr. Burton, seconded by Mr. Arlett, to recess.

**M 485 18
(continued)**

Motion Adopted: 5 Yeas.

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

**M 486 18
Reconvene**

At 1:45 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, 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 public hearings.

**Public
Hearing/
CZ 1853**

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 AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.9136 ACRES, MORE OR LESS” (Change of Zone No. 1853) filed on behalf of Beebe Healthcare (Tax I.D. No. 334-12.00-125.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 9 and 23, 2018.)

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

The Council found that Rob Gibbs, Attorney, was present with Michael Riemann, P.E. with Becker Morgan Group. Also present were representatives of Beebe Healthcare. They stated that the application site abuts the existing Beebe property with a medical facility and medical offices and services; that the adjacent property is zoned AR-1 but has medical uses; that the property provides Beebe Healthcare the opportunity to expand existing medical services on a contiguous property to serve the growing needs of the area; that the property is in close proximity to Route 1 and will provide close access for medical care; that there are no wetlands or woodlands on the site; that the property will be served by Sussex County sewer; that the property is located in Tidewater’s CPCN area; that the property is located in the Investment Level 2 Area under State Strategies; and that DelDOT did not require a Traffic Impact Study.

**Public
Hearing/
CZ 1853
(continued)**

Mr. Cole referenced interconnectivity and Ms. Cornwell stated that the Planning and Zoning Commission can require interconnectivity as part of the site plan review.

There were no public comments.

The Public Hearing and public record were closed.

**M 487 18
Adopt
Ordinance
No. 2597/
CZ 1853**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2597 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.9136 ACRES, MORE OR LESS" (Change of Zone No. 1853) filed on behalf of Beebe Healthcare.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1854**

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 C-5 SERVICE/LIMITED MANUFACTURING DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.306 ACRES, MORE OR LESS" (Change of Zone No. 1854) filed on behalf of Ferguson Enterprises, Inc. (Tax I.D. No. 334-5.00-139.00) (911 Address: 32359 Lewes-Georgetown Highway, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 9 and 23, 2018.)

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

The Council found that Jim Fuqua, Attorney, was present with Dave Jemo of Ferguson Enterprises and David Kuklish of Bohler Engineering. They stated that this is an application is to rezone 5.31 acres of a 6.76 acre parcel to C-5 and that the 1.3 acres will remain AR-1; that the home located on the site will be subdivided into a separate lot; that the property was originally zoned commercial and was downzoned due to the owner's concern about higher taxes; that the property is surrounded by commercial property; that

**Public
Hearing/
CZ 1854
(continued)**

the Applicant is proposing the construction of a new building on the site for a HVAC facility (combination warehouse and distribution center); that there are no wetlands on the site; that DelDOT did not require a Traffic Impact Study (TIS), however, if a future activity is proposed for the rear area of the site, DelDOT will determine if a TIS is required; that the Applicant will comply with DelDOT entrance and roadway requirements; that the site will be served by Sussex County sewer and water will be provided by an on-site well; that stormwater and erosion and sediment control will be designated and operated in accordance with applicable State and County requirements, using Best Management Practices; that the site is designated as Investment Level 1 and 2 Areas by the Strategies for State Policies and Spending; that the site is located in two “growth areas”, the Environmentally Sensitive Development Area and the Highway Commercial Area which are areas mainly located along highways that are appropriate for larger scale commercial uses; that the entrance to the site will be from Route 9; and that neighbors had expressed concerns about lighting and a lighting plan was submitted to a representative of the neighbors.

Public comments were heard.

Dan Donohue spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 488 18
Adopt
Ordinance
No. 2598/
CZ 1854**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2598 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-5 SERVICE/LIMITED MANUFACTURING DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.306 ACRES, MORE OR LESS" (Change of Zone No. 1854) filed on behalf of Ferguson Enterprises, Inc.

Motion Adopted: 5 Yeas.

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

**Draft
Ordinance
Relating to
the C-4
District**

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented a draft ordinance amending the Code relating to the C-4 ‘Planned Commercial’ District. It was noted that minor revisions are necessary to allow its use and implementation to occur, including minimum lot sizes and types and percentages of residential use permitted in the district.

- Introduction of Proposed Ordinance** Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XID, SECTIONS 115-83.26, 115-83.27, 115-83.31 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”
The Proposed Ordinance will be advertised for Public Hearing.
- 2018 Council Schedule** Mr. Lawson presented the remainder of the 2018 County Council schedule for Council’s consideration and reviewed the projected work items that need to be covered by the end of the year.
- Board of Adjustment** Mr. Lawson reported on the Board of Adjustment membership.
- M 489 18 Approve Reappointment to Board of Adjustment** A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council approves the reappointment of Brent Workman (District 2) to the Board of Adjustment, effective immediately, until such time as his term expires in June 2021.
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Administrator’s Report** Mr. Lawson read the following information in his Administrator’s Report:
- 1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County**
The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet September 17th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Barbara Fitzgerald, Supervisor of the Georgetown office of Catholic Charities, will be speaking on “*Delaware’s Low-Income Home Energy Assistance Program.*” The Conference Planning Subcommittee will also meet at 11:30 a.m. to discuss planning for the conference scheduled for May 9, 2019. A copy of the agenda for each meeting is attached.
 - 2. Ellendale Water District Referendum**
A referendum for the Ellendale Water District will be held on Saturday, September 15th, from 9:00 a.m. until 1:00 p.m. at the Philadelphia Pentecostal Holiness Church in Ellendale.
 - 3. Delaware State Police Activity Report**
The Delaware State Police year-to-date activity report for August 2018 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding

Administrator's Report (continued)

arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 195 troopers assigned to Sussex County for the month of August.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, The Estuary - Pump Station & Force Main and Seagrove (AKA Harlton) – PS & FM - Phase 1B, received Substantial Completion effective August 20th and August 21st, respectively.

5. Sussex County Council Workshop

Sussex County Council will host a joint workshop with the Sussex County Planning and Zoning Commission on Tuesday, September 18, 2018, at 1:30 p.m. at the Sussex County Administrative Offices West Complex located at 22215 North DuPont Boulevard in Georgetown. The workshop will focus on matters related to the County's requirements for tidal and non-tidal buffers.

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

Quarterly Pension Update

Mrs. Jennings presented a quarterly pension update including a performance summary and a contribution recommendation for the additional \$10 million in the FY 2019 Budget.

Performance Summary – The market value for the Pension Fund at the end of the Second Quarter was \$94,793,852; the Second Quarter return was 1.4% and the One Year return was 7.9%. There has been a decrease in management fees resulting in a savings to the County in the amount of \$180,000 per year. The market value for the OPEB Fund at the end of the Second Quarter was \$43,212,978; the Second Quarter return was 1.1% and the One Year return was 7.1%. All active managers out-performed their benchmarks and both funds performed above average in comparison to 200+ peers.

Mrs. Jennings reported that the Pension Committee recommended allocating the \$10 million in the FY 2019 Budget based off of the Investment Policy Statement previously approved (no new managers and no new allocation percentages).

M 490 18 Deposit Pension Contribution

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council, based on the recommendation of the Pension Committee and Marquette Associates, directs the Finance Director to deposit the additional \$10 million contribution to the Pension Fund based on the current Investment Policy Statement.

**M 490 18
(continued)**

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 2129**

Under Old Business, the Council considered Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 24, 2018 at which time action was deferred. On June 14, 2018, the Commission recommended approval, with conditions.

(See the minutes of the Planning and Zoning Commission dated May 24 and June 14, 2018.)

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

Mr. Moore reported that Mr. Burton has questioned some issues raised by surrounding property owners. Mr. Moore noted that this is a very unique circumstance: the Planning and Zoning Commission held a Public Hearing and did not make a decision on the date of the Public Hearing; then the County Council held its Public Hearing and action was deferred and the record was closed; and then the Planning and Zoning Commission made a recommendation. Thereafter, some landowners got together after the recommendation of the Planning and Zoning Commission and came up with an agreement; however, that discussion and agreement is not reflected in the decision of the Commission.

Mr. Moore advised that the Council cannot get into the issue of the landowner agreement and the discussions since it came after the record was closed. The Applicant's Attorney has requested that the record be reopened for a very specific and limited purpose to have the Council consider a substitute Condition J and for the introduction of information concerning the landowner discussions and agreement that took place. Mr. Moore advised that since this is such a unique circumstance, it would be appropriate to have the record reopened for that limited purpose. He noted that the application would have to be re-advertised and placed on the County Council's agenda (the application would not have to go back to the Planning and Zoning Commission) for the purpose of having the information in the record prior to a vote; public comment would be allowed on that limited purpose only.

**M 491 18
Reopen
Public
Record/
CU 2129**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to reopen the public record on Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc. for the very specific and limited purpose of having the Council consider a substitute Condition J and for the introduction of the information concerning the landowner discussions and agreement that took place.

**M 491 18
(continued)**

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 2130**

The Council considered Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2018 at which time action was deferred. On June 28, 2018, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated June 14 and 28, 2018.)

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

On July 24, 2018, the Council deferred action for additional information from the Engineering Department. On August 21, 2018, the Council deferred action again for information on the density of applications approved in the last few years.

Ms. Cornwell reported that staff found three applications approved in the area since 2008 and a map was presented showing the location and density of the projects.

Mr. Moore commented on the preparation of proposed conditions and findings of fact.

**M 492 18
Defer
Action/
CU 2130**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to defer action on Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

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/
Proposed
Ordinance/
Special
Events**

Under Old Business, the Council discussed the Proposed Ordinance relating to Special Events. Todd Lawson, County Administrator; Vince Robertson, Assistant County Attorney; Janelle Cornwell, Planning and Zoning Director, and Glenn Marshall of Emergency Medical Services highlighted the updates and described the changes to the introduced ordinance and the Sussex County Special Event & Public Safety Services Policies and Procedures. The Proposed Ordinance, the Policies and Procedures, and the Online Web Portal were discussed. It was noted that the revisions include the following: confirms the County is not going to govern events that are

**Old
Business/
Proposed
Ordinance/
Special
Events
(continued)**

consistent with the permitted use of a property (i.e. fire halls, VFWs, American Legions, etc.); confirms that the County is not going to govern events that occur on land owned by the United States of America, the State of Delaware, Sussex County, municipalities, and schools; places in list for the examples of items to be considered by the Director rather than including them in the body of the paragraph; confirms that any event, regardless of size, location, use, or duration, will need to coordinate with Sussex County over public safety coverage; and incorporates by reference the Sussex County Special Event & Public Safety Services Policies and Procedures, which gives details on the implementation of the ordinance. It was noted that the new Sussex County Special Event & Public Safety Services Policies and Procedures is a complete re-work of the policy document currently in use. The content of the application and the application process were discussed at length. Mr. Lawson advised that Motions relating to the Proposed Ordinance will be drafted for the Council's consideration at the September 18, 2018 meeting.

**Base
EJCDC
Agreement
for Pro-
fessional
Environ-
mental
Services**

Hans Medlarz, County Engineer, presented for Council's consideration a Base Engineering Agreement with Rummel, Klepper & Kahl, LLP (RKK) for Professional Environmental Services – Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds. Mr. Medlarz stated that the Engineering Department is requesting approval of the base contract with RKK for a five (5) year term, in conjunction with an initial task order on a time and materials basis, in the amount not to exceed \$250,000.00 for professional engineering services, including survey, planning, drafting County Code for programmatic governance, environmental assessment and remediation, science-based development of nutrient loading baselines, engineering design of water quality as well as runoff reduction projects, programmatic assistance in setting up stormwater management districts and/or stormwater management banking in the Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds and developing Banking and Management Offset District(s) regulatory framework, transaction documentation and accounting processes and identify responsibilities of the Sussex Conservation District as well as DNREC within the overall governance.

**M 493 18
Base
EJCDC
Agreement
for Pro-
fessional
Environ-
mental
Services
(continued)**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the Base EJCDC Agreement with Rummel, Klepper & Kahl, LLP be approved, along with an initial Task Order not to exceed \$250,000.00 for Professional Environmental Services in the Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds.

Motion Adopted: 5 Yeas.

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

**Delaware
CIB
Funding
Application**

Mr. Medlarz referenced the long standing relationship of the County and the Delaware Center for the Inland Bays (CIB) with regards to the James Farm Ecological Preserve and detailed the Engineering Department's recommendation to adopt a draft Resolution to apply for an ORPT (Outdoor Recreation, Parks and Trails) grant in the pre-approved amount of \$75,000.00 for James Farm Ecological Preserve trailhead improvements detailed in Phase 1 of the Preserve's Master Plan. It was noted that the County, as a government agency, is a sponsor (only) of the funding application; the matching funds will come from the CIB.

**M 494 18
Approve
Submission
of CIB
Funding
Application
and Adopt
R 013 18**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the submission of an application to DNREC for an ORPT grant in the amount of \$75,000.00 and Adopts Resolution No. R 013 18 entitled "TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S (DNREC) OUTDOOR RECREATION, PARKS AND TRAILS (ORPT) PROGRAM FOR A 50% MATCHING GRANT TO FINANCE THE PHASE I CONSTRUCTION OF THE JAMES FARM ECOLOGICAL PRESERVE MASTER PLAN".

Motion Adopted: 5 Yeas.

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

**Concord
Road
Utility
Upgrade/
Change
Order**

Mr. Medlarz presented Change Order No. 2 in the amount of \$14,490.60 to the Concord Road Utility Upgrade Project, Contract #15-03. The Change Order involves three separate items with the first two being associated with the Sussex County Sewer Project (additional maintenance of traffic requiring additional paving and a sewer lateral to be moved) and the last one being associated with the Town of Blades Water Project (already approved by the Town Council).

**M 495 18
Approve
Change
Order/
Concord
Road
Utility
Upgrade**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract #15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District be approved, which increases the contract amount by \$14,490.60 for a new total of \$2,450,049.46.

Motion Adopted: 5 Yeas.

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

**King Farm
Boulevard
Phase I
Project**

Mr. Medlarz reported that the Engineering Department recommends granting Substantial Completion and Final Acceptance for the King Farm Industrial Park Boulevard, Phase 1. The construction project received a

King Farm Project (continued) final inspection on December 20, 2017 and a punch list was provided; however, completion of the items was repeatedly delayed by weather but is now fully complete.

M 496 18 Grant Final Acceptance of King Farm Boulevard Phase I Project A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Final Acceptance for Contract #17-15, King Farm Industrial Park Boulevard, Phase 1, be granted effective December 20, 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

Grant Request Mrs. Jennings presented a grant request for the Council's consideration.

M 497 18 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,500.00 from Mr. Vincent's Councilmanic Grant Account to the Nanticoke River Arts Council for operating costs.

Motion Adopted: 5 Yeas.

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

M 498 18 Recess and Go Into Executive Session At 4:26 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session.

Motion Adopted: 5 Yeas.

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

Executive Session At 4:27 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to Pending/Potential Litigation. The Executive Session concluded at 4:35 p.m.

M 499 18 Come Out of Executive Session At 4:35 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

Action **There was no action taken on Executive Session matters.**

M 500 18 **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at**
Adjourn **4:36 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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

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

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

September 06, 2018

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
TRUITT HOMESTEAD - PHASE 2 (CONSTRUCTION RECORD)
AGREEMENT NO. 1042 - 3

DEVELOPER:

Mr. Preston Schell
Schell Brothers
20184 Phillips Street
Rehoboth Beach, DE 19971

LOCATION:

Southwest side of Shuttle Road, West of Coastal
Highway (RT1).

SANITARY SEWER DISTRICT:

West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

37 Single Family Lots.

SYSTEM CONNECTION CHARGES:

\$235,320.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
07/28/16

Department of Natural Resources Plan Approval
10/14/16

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 60

Construction Admin and Construction Inspection Cost – \$10,834.13

Proposed Construction Cost – \$72,227.50



ENGINEERING DEPARTMENT

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

September 06, 2018

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
SADDLE RIDGE - PHASE 2
AGREEMENT NO. 1011 - 3

DEVELOPER:

Mr. Tim Green
SB Saddle Ridge LLC
20184 Phillips Street
Rehoboth Beach, DE 19971

LOCATION:

NE/Corner of John J. Williams Hwy & Tanglewood
Drive a private Street providing access to Briarwood
Estates Subd. and also being 0.6 miles SW/RD
284 (Mullberry Knoll Way)

SANITARY SEWER DISTRICT:

Goslee Creek Planning Area

TYPE AND SIZE DEVELOPMENT:

Residential Subdivision - RPC, 46 Single Family
Lots (current location of Windswept Stables.

SYSTEM CONNECTION CHARGES:

\$292,560.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
10/28/15

Department of Natural Resources Plan Approval
11/10/15

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 90

Construction Admin and Construction Inspection Cost – \$15,942.30

Proposed Construction Cost – \$106,28



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

Joseph L. Thomas
Director
(302) 855-7801 Office
(302) 855-7805 Fax
(302) 855-7803 Office After Hours
(302) 855-7800 Fax After Hours



Sussex County
EMERGENCY OPERATIONS CENTER
21911 RUDDER LANE
P.O. BOX 589
GEORGETOWN, DE 19947

Council,

I need to update you on an issue that has developed over the last few weeks that needs the County's support.

The issue involves the emergency 800 MHz radio system used by emergency responders in Sussex County and Maryland. The 800 MHz system is "owned" by the State of Delaware but Sussex County works directly with the local fire and ambulance companies to maintain their radios and ensure our radio towers are operating correctly.

These are the radios used by the County EMS and the individual fire and ambulance companies ("first responders"). When a first responder from Sussex needs to respond to an incident in Maryland or travel to a Maryland facility (eg, PRMC), they use the 800 MHz radios to communicate with the Maryland officials. This is commonly referred to as mutual aid communications.

Several months ago, the Maryland counties that border Sussex decided to upgrade their 800 MHz radios. Due to this upgrade, the Sussex radios will no longer properly communicate with the Maryland radios (using layman's terms).

On August 29th, Wicomico started their new system. And as of their cut over, the neighboring Sussex first responders cannot use their 800 MHz radios to communicate directly for mutual aid. In October, both Worcester and Ocean City have signaled they will cut over as well.

To resolve the communication failure, a "patch" is required to be downloaded on the Sussex radios and once the radios are reprogrammed, normal mutual aid communication between Maryland and Sussex will be restored. Downloading the patches and reprogramming the radios is something the EOC Communications Division has stepped up to undertake, if asked.

We have communicated with the State of Delaware through many channels to express our concerns and request for assistance. Thus far, our requests have not produced any results.

Some of the fire companies have begun to take steps to receive the patch for their radios but this is an expensive and time-consuming proposition. The fire companies have begun to contact their local elected officials – some of you may have been contacted already.

In sum, the County has been asked to assist to purchase the required patches and assist (when asked) to install the patches.

Below is a summary of the required work. The fire/ambulance companies selected are those that primarily have mutual aid with Maryland. There may be others. We have yet to communicate to the companies. I wanted to send you this email first.

This is the inventory that requires an update, combined Mobiles and portables:

Gumboro 70
Roxana 35
Selbyville 80
Laurel 40
Seaford 60
Blades 40
Sussex EMS 95

Total: 420

Discounted flash update cost (~\$182) (65% discount)

Total Cost Estimate: ~\$76,000

Motorola has offered a discounted rate to bring radios up to the proper capability. The list price of a TDMA flash for the APX radios is \$518.00. The discounted flash cost is **\$181.30**. For now, this pricing is only available through December 14, 2018.

My proposal would be to pay for the discounted patch and offer to install the patches by County staff. Those companies choosing to use a third-party vendor will be reimbursed the cost of the patch at \$182/patch.

Funding for this project would come out of the County's Contingency Fund.

**INFORMATION TECHNOLOGY
MAPPING & ADDRESSING DIVISION**

MEGAN NEHRBAS
MANAGER OF GEOGRAPHIC
INFORMATION SYSTEMS (GIS)
(302) 855-1176 T
(302) 853-5889 F



Sussex County

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DWAYNE KILGO
DIRECTOR OF INFORMATION TECHNOLOGY

September 13, 2018:

Online Map Update Release

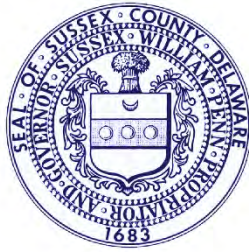
Our presentation will show updated functionality and highlight the following:

1. compatibility across all platforms on mobile devices (both tablet and handheld friendly)
2. new search capabilities including
 - searching parcels by subdivision and searching addresses by tax ID
 - search address by tax ID even with an assessment unit number.
3. new printing layouts and formats
 - you only get the info in the legend that is relevant to your mapping selections and the layers you have turned on vs that blanket template.
 - Finally, you get the attribute information you have displayed on your map showing up on the layout as well.



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Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George Cole, Vice President
The Honorable Samuel R. Wilson Jr
The Honorable I.G. Burton III
The Honorable Robert B. Arlett

FROM: Hans Medlarz, P.E., County Engineer
Gina A. Jennings, MPA, MBA, Finance Director

DATE: September 11, 2018

RE: **HERRING CREEK AREA OF THE UNIFIED SANITARY SEWER DISTRICT,
APPROVAL OF USDA LOAN RESOLUTION, PHASE 3
INTRODUCTION OF AN ASSOCIATED DEBT ORDINANCE**

On July 9, 2016, eligible voters within the proposed Herring Creek Sewer Area approved the sewer district expansion and on August 2, 2016, County Council officially created said expansion. On November 1, 2016, County Council approved WRA Associates, Inc.'s professional services Amendment No. 8 for Aerial Mapping & Environmental Assessment. That day County Council further directed the County Engineer to procure rights-of-way and prepare plans and specifications. Since then, the Engineering Department identified easement acquisitions, approached owners, ordered appraisals and secured many key easements, but not all.

On March 20, 2017, the Finance Department filed an overall funding application for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service. Due to the size of the project USDA approached the County with a phasing plan. Phase 1 encompasses the pump stations and pressure mains in conjunction with the necessary the right-of-way acquisitions. Phase 2 provides the sewer collection system for all subdivisions off Sloan Road while Phase 3 provides the collection system for all minor and major subdivisions off Banks Road.

On June 21, 2017, the County accepted the letter of conditions and the obligating document associated with the Phase 1 in the amount of \$4,287,000 of loan and \$990,000 of grant funding. On January 30, 2018, Council approved the USDA Loan Resolution for Phase 1 and introduced the associated ordinance which was heard and approved by Council on March 13, 2018.

On June 8, 2018, the County accepted the letter of conditions and the obligating document associated with the Phase 2 in the amount of \$5,600,000 of loan and \$1,899,000 of grant funding. On June 19, 2018 Council approved the USDA Loan Resolution for Phase 2 and introduced the associated ordinance which was heard and approved by Council on July 17, 2018.

On August 2, 2018 the County accepted the letter of conditions and the obligating document associated with the Phase 3 in the amount of \$5,601,000 of loan and \$1,900,000 of grant funding. The



Finance and Engineering Departments now recommend Council's approval of the USDA Loan Resolution for Phase 3 and introduction of the associated ordinance authorizing the issuance of up to \$5,601,000 of general obligation bonds of Sussex County in connection with the construction and equipping of Phase 3 of the Herring Creek Area Expansion of the Unified Sanitary Sewer District.

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE _____

OF THE _____
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the _____

(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

_____ ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture,
(herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921
et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event
that no other acceptable purchaser for such bonds is found by the Association:**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal ly permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as _____ of the _____
 hereby certify that the _____ of such Association is composed of
 _____ members, of whom , _____ constituting a quorum, were present at a meeting thereof duly called and
 held on the _____ day of _____ ; and that the foregoing resolution was adopted at such meeting
 by the vote shown above, I further certify that as of _____ ,
 the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been
 rescinded or amended in any way.

Dated, this _____ day of _____

Title _____

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,601,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the "County") has "all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute" (the "Home Rule Power");

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of an extension of sanitary sewer services to Herring Creek (the "Project");

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$5,601,000 (the "Bonds") to finance or reimburse the County for a portion of the cost of the design, construction and equipping of the Project.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the costs of planning, constructing, acquiring and equipping the Project or any portion thereof; interest on the Bonds and any interim financing during the construction period and for a period of up to one year following the estimated date of completion; the reasonable costs of issuance of the Bonds and any interim financing; the repayment of temporary loans incurred with respect to the Project; and the reimbursement of authorized costs previously expended by the County from other funds.

Section 2. Security for the Bonds. The principal, interest and premium, if any,

on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bonds are backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the Herring Creek extension.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding 40 years from the date of issue of the Bonds, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the United States of America, Rural Utilities Service (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage. The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

SYNOPSIS: This Ordinance provides for the issuance of up to \$5,601,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of an extension of sanitary sewer services to Herring Creek (the "Project").

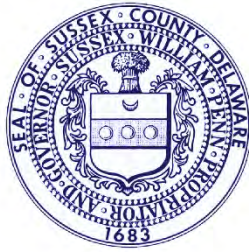
I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. ____ ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE ____ DAY OF _____, 2018.

Robin A. Griffith
Clerk of the Sussex County Council

(Herring Creek Ordinance Phase III)

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable I.G. Burton, III
The Honorable Robert B. Arlett
The Honorable Samuel R. Wilson, Jr.

FROM: Hans Medlarz, County Engineer

RE: **James Farm Master Plan Implementation Phase I
Cedar Neck Road Entrance, Project C19-02A
Bid Award Recommendation**

DATE: September 18, 2018

Sussex County and the Delaware Center for Inland Bays (CIB) have a long-standing relationship with regards to the James Farm Ecological Preserve, beginning in 1998 with the first occupancy lease agreement. On September 19, 2017, Council granted a 20-year occupancy extension to the original agreement.

In 2016, a Master Plan was completed, detailing specific improvements to be constructed at the site, to accommodate the expansive visitation growth. The design and permitting for the construction of the Master Plan's Phase I Improvements, was completed in August 2017. Subsequently the County, on behalf of CIB, applied for and received an Outdoor Recreation Parks and Trail Grant through DNREC in the amount of \$85,000.00, which the County matched with FY 18 funds. These funds will allow the County and CIB a partial implementation of the Master Plan's Phase I construction starting with entrance improvements.

The James Farm Master Plan Implementation Cedar Neck Road Entrance project was publicly advertised and three (3) bids were received on September 6, 2018. The low bidder is Gateway Construction, Inc., of Clayton, Delaware, at the bid amount of \$97,597.50. The Sussex County Engineering Department recommends awarding the project to Gateway Construction, Inc. If approved, the Engineering Department will be providing construction management services.



ENGINEERING DEPARTMENT

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UTILITY PERMITS (302) 855-7719
UTILITY PLANNING (302) 855-1299
FAX (302) 855-7799



Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JAMES FARM MASTER PLAN IMPLEMENTATION CEDAR NECK ROAD ENTRANCE CONTRACT C19-02A

BIDDER	TOTAL BID
Gateway Construction *	\$97,597.50
George & Lynch	\$104,867.20
Jerry's Paving	\$110,945.00

*Apparent low bidder



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

Plantation Road Expansion Facts

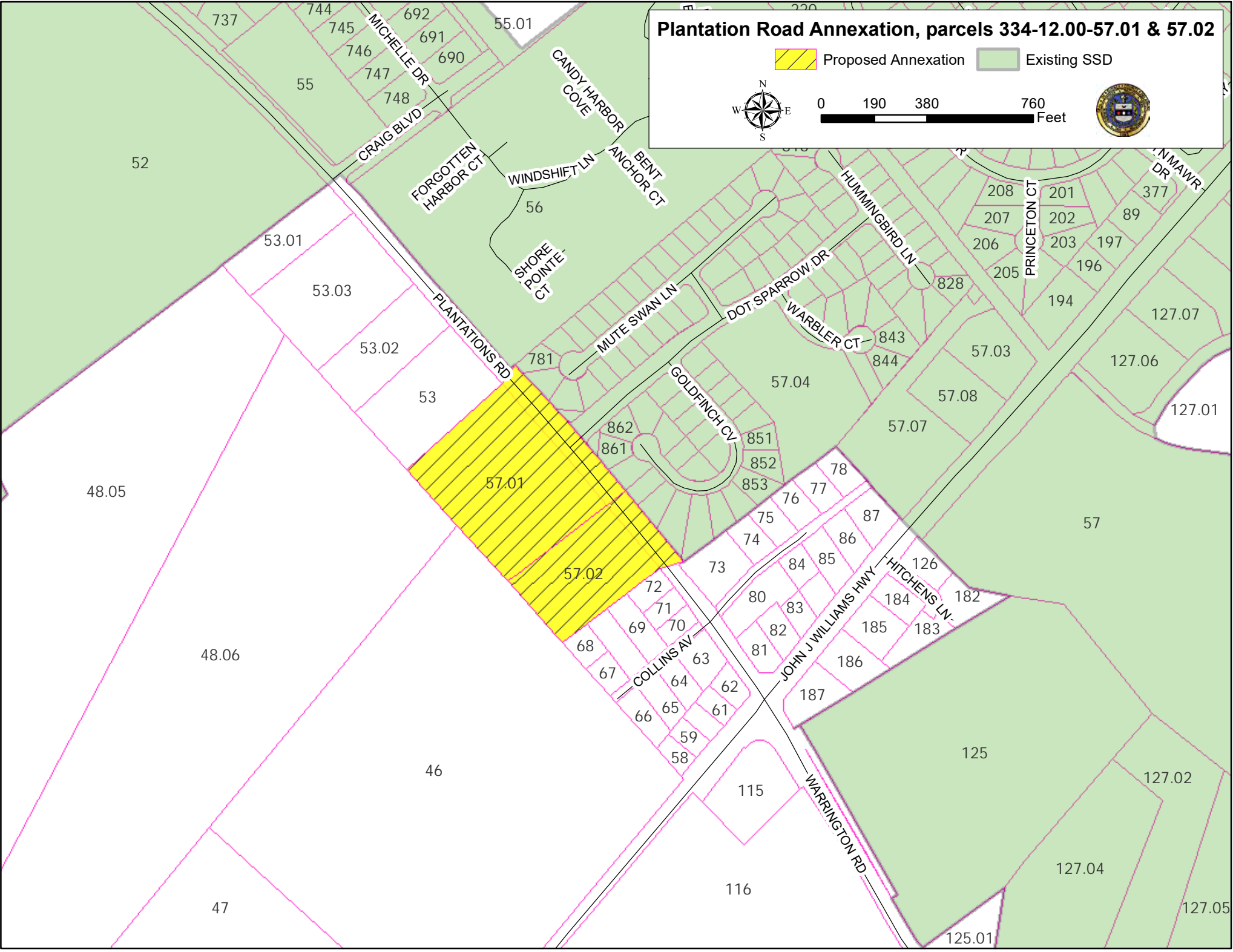
- Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).
- Requested by DBF (Davis Bowen & Friedel) on behalf of their clients LMHT, LLC for parcel 334-12.00-57.01.
- The parcel wishes to connect to the existing forcemain installed to service the County owned EMS facility on Plantations Road. An Infrastructure Agreement will be required.
- The Engineering Department would like to include parcel 57.02 (the EMS station) as part of the expansion.
- The expansion will consist of 9.07 acres more or less.
- The property owner(s) will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.
- A tentative Public Hearing is currently scheduled for October 23, 2018 at the regular County Council meeting.

Plantation Road Annexation, parcels 334-12.00-57.01 & 57.02

 Proposed Annexation  Existing SSD



0 190 380 760 Feet



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



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sussexcountyde.gov

Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: September 14, 2018

RE: County Council Old Business Report for CU 2127 Wine Worx, LLC

The County Council held a public hearing on June 5, 2018. County Council deferred action pending a response from the County Attorney regarding questions about the proposed use.

The Planning and Zoning Department received an application (CU 2127 Wine Worx, LLC) to allow for an agricultural education facility with commercial kitchen to be located on Hudson Rd. The Planning and Zoning Commission held a public hearing on May 10, 2018. The following are the draft minutes and motion for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a site plan, staff analysis and DelDOT Service Level Evaluation.

The Commission found Adrian Mobilia was present on behalf of the application; that Mr. Mobilia stated he is requesting a Conditional Use for an event venue at a farm winery in order to continue planned activities; that they have provided live entertainment indoors and outdoors, wedding and bridal showers, weddings, food trucks, etc. at the request of customers; that they have an oversized septic system to accommodate weddings; that they have 54 dedicated parking spaces with additional overflow; that they plan to hold events for 20-150 people; that the internal limit is 200 people for outdoor events; that they are legally permitted to be open until 1:00 am; however, their internal policy is to close at 11 pm and cut off events by 10:30 pm; that they normally close by 6 pm or 7 pm; that they have three (3) full time employees and ten (10) part-time employees; that they have paid over \$7,300 in excise tax and \$2,200 to date to local charities; that they would like to continue what they are doing; and that live outdoor entertainment does use amplified sound on the patio.

The Commission found that no one spoke in favor or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to defer action for further consideration. Motion carried 5-0.



At their meeting of May 24, 2018, the Planning Commission discussed the application which has been deferred since May 10, 2018.

Mr. Hudson moved that the Commission grant approval CU #2127 for Wine Worx, LLC for an Event Venue based upon the record made during the public hearing and for the following reasons:

1. The site is 26 acre parcel of land owned by the applicant. It has County approval for a winery, and this is an extension of that agricultural use.
2. The applicant intends to hold events that are connected with the primary use as a winery, such as live entertainment, craft nights, weddings, birthday parties and similar events.
3. The site will have 54 dedicated parking spaces, plus plenty of room for overflow parking.
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 applicant testified that the existing customers have been asking to use the winery for these activities. This use will serve that need in Sussex County.
6. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following conditions:
 - A. All events shall end no later than 10:30 p.m. and clean up may occur after 10:30 p.m.
 - B. Food and beverage service and music or similar entertainment is permitted.
 - C. As stated by the Applicant, there shall be nor more than 200 people at any event.
 - D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - E. All entrance locations shall be subject to the review and approval of DeIDOT.
 - F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Wheatley and carried unanimously to grant Preliminary Approval with Final Site Plan approval by Planning and Zoning Commission. Motion carried 5-0.

Introduced 01/16/18

**Council District No. 4 – Cole
Tax I.D. No. 134-11.00-53.00
911 Address: 32512 Blackwater Road, Frankford**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.60 ACRES, MORE OR LESS

WHEREAS, on the 21st day of December 2017, a conditional use application, denominated Conditional Use No. 2127, was filed on behalf of Wine Worx, LLC; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2127 be _____; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article VI, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2127 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the west side of Blackwater Road, approximately 1,007 feet north of Burbage Road, and being more particularly described per the attached deed prepared by Scott and Shuman, P.A., said parcel containing 25.60 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable George B. Cole, Vice President
The Honorable Robert B. Arlett
The Honorable Irwin G. Burton III
The Honorable Samuel R. Wilson Jr.

FROM: Todd F. Lawson
County Administrator

RE: **SPECIAL EVENTS ORDINANCE**

DATE: September 7, 2018

During Tuesday's Council meeting, we are scheduled to review the pending Special Events Ordinance and update you on related matters. Staff will highlight the updates and describe the changes to the introduced ordinance. I do not expect a vote on the ordinance on Tuesday; rather, Vince will review the updated amendments with you and ensure your acceptance. Then we will follow-up with the appropriate motions for those amendments a week later, on September 18th.

There are three key items that have been the focus of our efforts: 1) the Ordinance, 2) the Policies and Procedures, and 3) the Online Web Portal.

Ordinance

After hearing from the public and Council at the public hearing that occurred, staff went back and reviewed the proposed ordinance amendment. The updated changes are a direct response to the feedback we received and are made in an effort to clarify the intent of the ordinance. The revision includes the following:

- It confirms that the County is not going to govern events that are consistent with the permitted use of a property. Examples of this would be events at firehalls, VFWs, American Legions, and so on.
- It confirms that the County is not going to govern events that occur on land owned by the United States of America, the State of Delaware, Sussex County, municipalities, and schools.



- It places in list form the examples of items to be considered by the Director rather than including them in the body of the paragraph.
- It confirms that any event, regardless of size, location, use, or duration, will need to coordinate with Sussex County over public safety coverage. Recall that Sussex County provides EMS and public safety coordination to events throughout Sussex County, separate and apart from anything having to do with land use or Planning and Zoning approval.
- It incorporates by reference the Sussex County Special Event & Public Safety Services Policies and Procedures, which gives details on the implementation of the ordinance.

A detailed summary page along with the ordinance language can be found at Attachment 1 of this memo.

Policies and Procedures

The new Sussex County Special Event & Public Safety Services Policies and Procedures (“Policies and Procedures”) is a complete re-work of the policy document currently in use. The new Policies and Procedures specifies the County’s role in overseeing special events from both a land use and public safety perspective.

The Policies and Procedures document consists of six sections and provides applicants with a clear understanding of their responsibility when hosting a Special Event that falls within the County’s purview. The sections include:

1.0 Responsibility

This section describes the pertinent County departments that are responsible for the administration of the Policies and Procedures.

2.0 Determination of Application and Process

This section describes who is required to submit a Special Event application for County review and approval. More importantly, this section describes who is not required to submit an application, including volunteer fire companies, veterans’ organizations, etc.

3.0 Special Event Permit Application and Process

This section describes in detail the six-step application process.

4.0 Special Event Permit – Public Safety Fees & Charges

This section describes the fee structure for Special Events that are charged for Public Safety coverage.

5.0 Public Safety Services

This section describes the factors involved in determining the appropriate Public Safety coverage for an event.

6.0 Special Event Permit Decision Criteria

This section describes the criteria used by the County to approve or deny a Special Event application.

In addition, the Policies and Procedures also include a Quick Reference section that explains the document in “simple terms” and answers common questions about the process. Finally, a Definitions section is also included in the document.

A copy of the Policies and Procedures can be found at Attachment 2 of this memo.

Online Web Portal

The Information Technology staff at the County completely built the new online web portal. The address is: <https://sussexcountyde.gov/special-events-application>.

The new portal is user-friendly and requires all the pertinent information required by the County to quickly review an application.

A copy of the portal can be found at Attachment 3 of this memo or at the address listed above.

If you have any questions about these efforts, please don't hesitate to contact me.

Attachments

pc: J. Everett Moore Jr., Esquire
Vincent G. Robertson, Esquire
Janelle M. Cornwell
Glen Marshall
Joseph L. Thomas

ATTACHMENT 1

REVISED SPECIAL EVENTS LANGUAGE

UPDATE

September 11, 2018

After hearing from the public and Council at the public hearing that occurred, staff went back and reviewed the proposed Ordinance Amendment. What follows is a revision of that proposed Ordinance. The revision takes into account several factors:

- It confirms that the County is not going to govern events that are consistent with the permitted use of a property. Examples of this would be events at firehalls, VFWs, American Legions, and so on.
- It confirms that the County is not going to govern events that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and schools.
- It places in list form the examples of items to be considered by the Director rather than including them in the body of the paragraph.
- It confirms that any event, regardless of size, location, use or duration will need to coordinate with Sussex County over public safety coverage. Recall that Sussex County provides EMS and public safety coordination to events throughout Sussex County, separate and apart from anything having to do with land use or Planning and Zoning approval.
- It incorporates by reference the Sussex County Special Event & Public Safety Services Policies and Procedures, which give details on the implementation of the Ordinance.

The following represents the revised wording. For purposes of this overview, it is just a representative sample, as this same wording repeats in the AR-1, GR, B-1 C-1, CR-1 and M Districts.

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

(13) Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and School Districts or charter schools are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales event, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.

No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.

In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:

- (a) the estimated number of attendees;*
- (b) the size of the parcel where the special event is to be located;*
- (c) the parking requirements of the special event;*
- (d) roads and traffic patterns providing access to the special event;*
- (e) prior events conducted by the applicant;*
- (f) noise, light, odor, and dust generated by the special event;*
- (g) proposed hours of operation and number of consecutive days; and*
- (h) such other considerations that may be applicable to the requested event.*

The Director or his or her designee may impose conditions upon an administrative approval.

All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination the special event's administrative approval.

Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.

#

ATTACHMENT 2

-DRAFT-

**SUSSEX COUNTY
SPECIAL EVENT & PUBLIC SAFETY SERVICES POLICIES AND
PROCEDURES**

1.0 RESPONSIBILITY

1.1 The Planning & Zoning Department (the “Department”) in conjunction with the Special Operations Coordinator shall be responsible for the administration of these Policies and Procedures (“Procedures”). There are two components to this process: A) Department approval under the Sussex County Zoning Code and B) Public Safety Services coordination. Events that do not require Department approval for the reasons outlined in these Procedures may still require Public Safety Services coordination. In either case, the applicant shall submit the Special Event Application which will lead to a determination if only Public Safety Services coordination is required.

2.0 DETERMINATION OF APPLICATION AND PROCESS

2.1 A Special Event Application shall be filed with Sussex County if: The event is held outdoors or within a temporary structure or at a site and for a purpose different from the permitted use and usual occupancy of the premises or site.

2.2 If the event is for a purpose that is consistent with the permitted use and usual occupancy of the premises or site, a Special Event Application is not required. Examples of such consistent uses include, but are not limited to, events that occur on a property owned and occupied by a volunteer fire company, veteran’s organization, religious organization, charitable organization or fraternal society. Events held on private property for personal enjoyment and not for business or commercial uses (and without admission charges) shall not require a Special Event

Application. Events that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Schools shall not require a Special Event Application. However, the foregoing uses and locations may still require compliance with the Public Safety Components of these Procedures for the planned use.

2.3 Once an application for a new or modified event is submitted, it will be reviewed by the Department in conjunction with the Special Operations Coordinator and in accordance with the requirements of the Sussex County Zoning Code and these Procedures.

3.0 SPECIAL EVENT PERMIT APPLICATION AND PROCESS

3.1 Special Event Application: Applicants for Special Events (the “Applicant”) shall complete the application form and provide all of the relevant event information specified in the application form. Any additional information deemed necessary by the Applicant or Sussex County should be provided as an addendum to the application.

3.2 Special Event Application (Public Safety Services only): Applicants for Special Events seeking Public Safety Services (EMS and/or EOC) shall complete the application form and provide all of the relevant event information specified in the application form.

3.3 The application process involves the following steps:

Step 1 – Application Submittal: The Applicant completes a Special Event Application and any addenda and submits it for review and processing with the County. The Special Event Application must be submitted a minimum of sixty (60) days prior to the date of the proposed event to allow adequate review time. Events proposed to occur annually shall require new Special Event Applications every year.

The Special Event Application shall designate an “Event Coordinator” as the contact person for all communications with Sussex County.

Step 2 – Initial Review: The County shall review applications to determine if all necessary information is provided. Applications seeking Public Safety Services (EMS and/or EOC) will be reviewed using the same application form. The County shall forward the Special Event Application information to the relevant State support agencies for the agencies’ information. It is the Event Coordinator’s responsibility to acquire all necessary State agency approvals.

Step 3 – Review Process: The County shall review the Special Event Application and determine if the event can be accommodated and/or whether the event requires a Special Event Permit or another form of approval, such as a Conditional Use.

Step 4 – Notification to Applicant: The County shall notify an Applicant of the decision in writing a minimum of thirty (30) days prior to the date of the proposed event.

Step 5 – County Council Notification: The Planning & Zoning Department shall notify the County Council of approved events.

Step 6 – Payment of Services: All payment for Public Safety Services shall be due thirty (30) days after the final day of the Special Event. Note that non-payment for services shall be taken into account when considering Future Special Event Applications by an Applicant or for the same location.

4.0 SPECIAL EVENT PERMIT – PUBLIC SAFETY FEES & CHARGES

4.1 No fee shall be assessed for the Special Event Application and Permit other than any fee associated with the Public Safety Services.

4.2 The Sussex County Public Safety Departments, including the Emergency Medical Services (Paramedics) and the Emergency Operations Center (911

Dispatchers) will calculate the fees required for their services. An estimate shall be provided to the Event Coordinator within thirty (30) days prior to the event.

4.3 Fees are determined based on a flat fee schedule, depending on the type of event and duration/participation level. There is a two-hour minimum for each Public Safety staffer assigned to the event. The calculation of the fees is based on the following:

Public Safety Provider	Fee Rate
EMS-Paramedic	\$60.00/hour/paramedic
EOC-Dispatcher	\$40.00/hour
EOC-Mobile Command Unit	\$40.00/hour

4.4 Fees are applied from the time the Public Safety Team reports to the station until the time they complete the Special Event assignment.

4.5 EOC-Mobile Command Unit fees are applied from the time the command unit is activated on-site until it is deactivated.

4.6 In the event the Public Safety Team is unable to attend the event, then all fees will be returned or cancelled. If the event is cancelled prior to the Public Safety Team arrival, all fees will be returned or cancelled, subject to costs incurred by the Public Safety Team for mobilization for the Special Event.

5.0 PUBLIC SAFETY SERVICES

5.1 The Special Operations Coordinator shall review the Special Event Application and discuss the request with the Event Coordinator.

5.2 The Special Operations Coordinator in conjunction with the EOC Director shall:

- 1) Determine if the event requires additional SCEMS and/or EOC coverage beyond the on-duty personnel.
- 2) Determine the appropriate level of staffing and equipment associated with the coverage.
 - a) The Special Operations Coordinator will make the determination based on the following:
 - (1) Type of event
 - (2) Anticipated attendance
 - (3) Duration of the event
 - (4) Event location
 - (5) Weather
 - (6) Available Resources (e.g. vehicle, equipment, staffing)
 - (7) Proximity to the hospital
 - (8) History of previous events
 - (9) Special request of event planner
- 3) Determine the appropriate costs associated with the coverage.
 - a) The Special Operations Coordinator will make the determination as follows:
 - i) Event Purpose
 - (1) Unpaid Coverage will generally apply when:
 - (a) There is no charge for the public to attend the event;
and

(b) The event is organized by a non-profit organization (defined by the IRS); or

(c) The event is considered a community event or a public education event.

(2) Paid Coverage will generally apply when:

(a) There is a charge for the public to attend the event; or

(b) The event is organized by a for-profit organization; or

(c) Any resulting profit is not going back into the community or the community organization; or

(d) Total anticipated attendance for the entire event is at a level that on-duty personnel cannot adequately cover.

- a. The Special Operations Coordinator and EOC Director (or designee) will determine if a Dispatcher and/or Mobile Command Center coverage is necessary.
- b. The Special Operations Coordinator will determine if the special event coverage requires a contract or memorandum of understanding (MOU).
- c. The Special Operations Coordinator will create a contract and/or MOU and ensure that it is signed by the Event Coordinator fourteen (14) days prior to the event.
- d. Once the contract and/or MOU is signed the Special Operations Coordinator will secure staffing.

5.3 The Special Operations Coordinator shall notify the jurisdictional fire company and ambulance company (if separate) of the Special Event. The jurisdictional fire company and, if separate, the jurisdictional EMS Captain will be encouraged to contact the Event Coordinator to discuss the appropriate level of fire/ambulance coverage, any associated costs, and any other special requests.

6.0 SPECIAL EVENT PERMIT DECISION CRITERIA

6.1 When deciding whether to approve, approve with conditions, or deny a Special Event application, the County shall consider the criteria set forth in the Sussex County Zoning Code in accordance with the following event factors:

- 1) Can be shown to function safely.
- 2) Allows the County and State to maintain reasonable police and fire protection to all areas of the County.
- 3) Causes no irreconcilable interference with previously approved and/or scheduled construction, maintenance, or other activities within the surrounding areas.
- 4) Causes no unacceptable impacts to neighboring residents, businesses, and property owners.

SPECIAL EVENTS QUICK REFERENCE

Why do I need to apply for a permit for my special event?

The permit process allows the County to review the event to ensure it is permitted under County Code. It also allows the County to oversee events in the interest of public health, safety, and welfare and schedule adequate services such as paramedics and 911 dispatchers. The permit process allows the County to alert other support services, such as the fire and ambulance companies, police, and DeDOT of the special event.

What events may require a Special Event Permit?

A permit may be required for a special event of a certain size and nature held outdoors or within a temporary structure or in a location that is for a purpose different from the permitted use and usual occupancy of that location.

What type of events are exempt from Planning and Zoning Department approval under the Sussex County Zoning Code?

- Any event held inside the boundaries of a town or city in Sussex County.
- Any event held on public property such as federal, state or county owned land, or on land owned and occupied by a school.
- Any event sponsored by a town, city, or chamber of commerce and held within the boundaries of a town or city in Sussex County.
- Any event held at a location or in a facility that is customarily used for said events, such as athletic events in a stadium or on fields or receptions and parties at a commercial venue.
- Any event held on private property that involves a customary and temporary private event such as a wedding, family gathering, or party, when such an event is not held for business or commercial purposes.
- Any event held at a location and facility that is customarily used for events involving the gathering of people, such as, volunteer fire companies, veteran's organizations, religious or charitable organizations, or fraternal societies.

How many days am I permitted to hold my special event?

The Special Event Permit only allows up to three (3) days of operation in one calendar year on any single property. Operation is defined as the event is open for business, or entry to the event is permitted, or entry tickets are required, etc. Days required for set-up and tear-down for the event are not included in the days of operation limit. The property shall return to its normal and customary use within seven (7) days after the last day of operation.

If a Special Event Permit is denied, what other options do I have to host my event?

Proper County approval is required prior to hosting a qualified special event. If a Special Event is not approved, that denial can be appealed to the Sussex County Board of Adjustment. However, aggrieved applicants should be aware such an appeal can be time consuming. Additional permission can come in the form of an approved Conditional Use or an approved Change of Zone. These approvals require an affirmative vote from the County Council (among other requirements) and require significant time and effort to receive, therefore applicants should plan accordingly.

How do I obtain a permit for my special event?

A Special Event Application must be completed to begin the permit review process. The Application is available from the Sussex County website or at the Planning & Zoning Department. Applications are required sixty (60) days prior to the special event.

What if I only seek to obtain Public Safety Services?

To request Public Safety Services, an applicant must fill out the Special Event Application and the Special Operations Coordinator will contact the Event Coordinator to review the Public Safety Services request.

What if I do not know if I should request Public Safety Services?

If you have any questions about the need for Public Safety Services, contact the Special Operations Coordinator at 302.854.5255.

Do I need to provide proof of insurance?

No, the County does not require or regulate insurance coverage. Insurance coverage is encouraged but is a decision of the Event Coordinator.

What other approvals are required to hold my special event?

Each event varies and the Event Coordinator is responsible for acquiring all necessary approvals from any agencies with jurisdictional authority over the proposed event. Sussex County only reviews the event for consideration of the zoning requirements and public safety coverage. All other requirements, such as police, transportation, public health, alcohol, agriculture, natural resources, fall under the purview of other jurisdictions.

Does Sussex County coordinate their review and approval with other agencies with jurisdictional authority?

Yes and no. To ensure an agency is aware of an event taking place in Sussex County, the County does send a courtesy copy of the Special Event Application to support agencies. Depending on the nature of the event, the County will contact and coordinate coverage with its public safety partners, including the local fire company, ambulance company, Delaware State Police, and DelDOT, as may be appropriate. Nonetheless, it is the Event Coordinator's responsibility to receive all agency approvals prior to the event.

How do I obtain contact information for the support agencies?

Common agencies used for special events are listed below with contact information:

AGENCY	PHONE	EMAIL
Del. Alcoholic Beverage Control	302.577.5222	
Del. Fire Marshal	302.856.5298	
Del. Division of Public Health	302.515.3300	
Del. State Police	302.672.5460	DSPPayJobAdmin@CYAUSA.com
Del. Dept. of Transportation	302.760.2080	DOT_SpecialEvents@STATE.DE.US

I am not sure if my event needs the permit, it is pretty small. Must I fill out this application?

If you are not sure the event needs a permit, contact the Planning & Zoning Department (302.855.7878). Staff may be able to assist you with determining the need.

What happens after I send the application to the Department? When will I be contacted?

After your completed Special Event Application is received, Sussex County will verify receipt.

DEFINITIONS

Annual Event – An event recurring each year on approximately the same date which has previously complied with the permit requirements of the County Code.

Applicant – The person or group legally responsible for the special event.

Conditions – Requirements for event sponsors.

Department – The Sussex County Department of Planning and Zoning.

Event Participants – People in attendance at an event, including spectators, vendors, event staff, County staff, and all others present for the purpose of the event.

Event Coordinator – The authorized agent of the Applicant who is primary contact for the special event.

Public Safety Services – Services provided by Sussex County employees including the Emergency Medical Services (Paramedics) and the Emergency Operations Center (911 Dispatchers).

Special Operations Coordinator – The Sussex County Employee responsible for the coordination of the Public Safety Services required or requested for a Special Event.

#

ATTACHMENT 3

Special Events Application



Before completing this Application form, please review the County's [Special Event & Public Safety Services Policies and Procedures](#)

* Required

Applicant Information

Event Sponsor/Organization *

Applicant Name *

Applicant Address *

City, State, ZIP *

Primary Phone *

Secondary Number (if applicable)

Fax

Email *

Event Coordinator (Point of Contact during event)

Event Coordinator Address

Event Coordinator Phone

Event Coordinator Email

Applicant Tax Information

EIN (if applicable)

501(c)(3) Non Profit

Yes

No

Event Name

Event Name *

Please describe the event with as much detail as possible

Date of Application

Event Type

- Public Event
- Private Event

Date(s) of Event

Start *

End *

Time(s) of Event

Day One Start *

 : am pm

Day One End *

 : am pm

Day Two Start

 : am pm

Day Two End

 : am pm

Day Three Start

 : am pm

Day Three End

 : am pm

Event Location

Location/Address of Event *

In/Out of Town

- In Town Out of Town

Tax Parcel # (if applicable)

Is Event Sponsor the property owner where the event is being held?

- Yes
- No

If not, please provide property owner's name and phone number.

Event Type

Type of Event: (check all applicable) *

- Community Day
- Concert
- Festival
- Parade
- Run/Walk/5k
- Swim/Boating
- Other

Expected Number of Attendees *

- 0-500
- 501-1000
- 1001-5000
- 5000 +

Event Details (check all applicable)

- Admission Fee
- Erected Seating
- Live Music
- Portable Toilets
- Temporary Outdoor Lighting
- Other
- Alcohol
- Fireworks
- Marching Units
- Security
- Tents/Shelters
- Amplified Sound
- Heating Devices
- Motor Vehicles
- Signs & Banners
- Traffic Control
- Carnival Ride
- Inflatables
- Parking
- Special Effects
- Vendors

Do You Request Public Safety Services?

- EMS-Paramedics
- EOC-Dispatcher
- EOC-Mobile Command Unit

Support Agency Information

Will the Delaware Office of Alcoholic Beverage Control be contacted? Yes No

ABC Contact Information: 302.577.5222

Will the Fire Marshal be contacted? Yes No

Fire Marshal Contact Information: 302.856.5298

Will the Del. Division of Public Health Be Contacted? Yes No

Del. Division of Public Health Contact Information: 302.515.3300

Will the Delaware State Police be contacted? Yes No

DSP Contact Information: 302.672.5460 or DSPPayJobAdmin@CYAUSA.com

Will the Delaware Department of Transportation be contacted? Yes No

DelDOT Contact Information: 302.760.2080 or DOT_SpecialEvents@STATE.DE.US

Will the jurisdiction Fire and/or Ambulance Company be contacted? Yes No

Attach File

No file chosen

Files must be less than 2 MB.

Signature

By electronically signing this application, I am the responsible party for this event and attest to the accuracy and validity of the information and further agree to the terms and conditions of the [Special Event & Public Safety Service Policies and Procedures](#).

And further, by electronically signing this application, the Applicant is agreeing to indemnify and hold Sussex County, its elected and appointed officials, directors, officers and employees harmless from and against any damages, claims, liability, attorneys fees and court costs of any sort and regardless of cause arising out of the Special Event conducted by the Applicant.

NOTE: Upon submittal, all information is forwarded to Sussex County and the form is cleared. Use the Print Button below to print a copy of the form. You will receive an email confirming your application with a copy of the form.

Initials *

Date *

Print This Application

Submit Application

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM “SPECIAL EVENTS” AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS

WHEREAS, Sussex County Council recognizes that certain Special Events are a benefit to Sussex County, its residents and visitors and its economy; and

WHEREAS, Sussex County Council desires to provide clear direction within its Zoning Code as to the methods of obtaining approvals for Special Events; and

WHEREAS, it is not the intention to prohibit Special Events from occurring, only to clearly establish the method of: (1) obtaining permits for them with over-the-counter approvals for certain events that are short term and not recurring; and (2) via the conditional use process for events that occur more regularly or have a greater impact on surrounding properties, roadways or other considerations; and

WHEREAS, several zoning districts (AR-1, GR, B-1, C-1, CR-1, and M) currently provide that Special Events require a conditional use approval, unless certain unspecified criteria are satisfied; and

WHEREAS, Sussex County Council desires to add further definition and clarity to what may be considered a permitted “special event” that does not require a conditional use approval, and provide the Director of the Office of Planning and Zoning direction on what to consider in approving a permitted Special Event; and

WHEREAS, Sussex County Council desires to clarify the Code by inserting permitted “Special Events” within the “Permitted Uses” section of the various zoning districts within the Zoning Code, while stating that other Special Events not approved as a Permitted Use administratively shall still require a conditional use approval; and

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

WHEREAS, additions to the Code of Sussex County are indicated with language that is both *underlined and italicized* and deletions to the Code of Sussex County are indicated with [brackets].

34 NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

35 **Section 1.** The Code of Sussex County, Chapter 115, Article IV, §115-20 is hereby
36 amended by inserting a new subparagraph A.(13) immediately after subparagraph
37 A.(12) as follows:

38 §115-20 **Permitted uses.**

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

40 (13) Special events such as circuses, carnivals, midways, promotional and
41 tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other
42 event or mass gathering being held outdoors or within a temporary structure or at
43 a site and for a purpose different from the permitted use and usual occupancy of the
44 premises or site. Such special events may be administratively approved by the
45 Director or his or her designee, when, in his or her judgment, the proposal will not
46 impair the purpose and intent of the zoning ordinance, and when the use is not so
47 recurring in nature as to constitute a permanent use not otherwise permitted in the
48 district, and when the use will not significantly affect the surrounding properties.

49
50 In determining whether to administratively approve the special event, the Director
51 or his or her designee shall take into account considerations including (but not
52 limited to) the following: the estimated number of attendees; the size of the parcel
53 where the special event is to be located; the parking requirements of the special
54 event; roads and traffic patterns providing access to the special event; prior events
55 conducted by the applicant; noise, light, odor, and dust generated by the special
56 event; proposed hours of operation and number of consecutive days; and such other
57 considerations that may be applicable to the requested event. The Director or his
58 or her designee may impose conditions upon an administrative approval, including
59 (but not limited to) hours of the event and maximum attendance. No more than three
60 (3) special events shall be approved for the same property or premises during a
61 calendar year. Each calendar day of a special event shall be counted as a separate
62 special event, not including reasonable time required for set up and removal when
63 the event is not otherwise underway.

64
65 All special events, regardless of size, use or duration, shall be subject to the
66 requirements of the Sussex County Special Event Policy. Special events that do not
67 meet these requirements or which are not administratively approved shall require a
68 conditional use. Special events that are small in size and do not affect surrounding
69 properties shall not require administrative approval.

70

71 **Section 2.** The Code of Sussex County, Chapter 115, Article IV, §115-22 is hereby
72 amended as follows:

73 **§115-22 Conditional uses.**

74 The following uses may be permitted as a conditional use when approved in
75 accordance with the provisions of Article XXIV of this chapter:

76 . . .

77 Special Events such as circuses or carnival grounds, amusement parks or
78 midways, festivals, concerts, race/walks or any other special event or gathering
79 being held outdoors or within a temporary structure or at a site and for a purpose
80 different from the designated use and usual occupancy of the premises and located
81 on unincorporated lands within Sussex County, permanently or for a temporary time
82 period exceeding three days. [Special events as defined herein, with a duration not
83 exceeding three days, are not subject to the conditional use process. Upon receipt
84 of an application, the Director or his/her designee may grant approval of a special
85 event not exceeding three days.] Special Events not approved by the Director as a
86 permitted use under §115-20 shall require a conditional use permit. All special
87 events regardless of duration, shall be subject to the requirements of the Sussex
88 County Special Event Policy.

89 **Section 3.** The Code of Sussex County, Chapter 115, Article VI, §115-39 is hereby
90 amended as follows:

91 **§115-39 Conditional uses.**

92 The following uses may be permitted as a conditional use when approved in
93 accordance with the provisions of Article XXIV of this chapter:

94 . . .

95 Special Events such as circuses or carnival grounds, amusement parks or
96 midways, festivals, concerts, race/walks or any other special event or gathering
97 being held outdoors or within a temporary structure or at a site and for a purpose
98 different from the designated use and usual occupancy of the premises and located
99 on unincorporated lands within Sussex County, permanently or for a temporary time
100 period exceeding three days. [Special events as defined herein, with a duration not
101 exceeding three days, are not subject to the conditional use process. Upon receipt
102 of an application, the Director or his/her designee may grant approval of a special
103 event not exceeding three days.] Special Events not approved by the Director as a

104 permitted use under §115-37 shall require a conditional use permit. All special
105 events regardless of duration, shall be subject to the requirements of the Sussex
106 County Special Event Policy.

107 **Section 4.** The Code of Sussex County, Chapter 115, Article X, §115-69 is hereby
108 amended by inserting a new subparagraph A.(27) immediately after subparagraph
109 A.(26) as follows:

110 §115-69 **Permitted uses.**

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

112 (27) Special events such as circuses, carnivals, midways, promotional and
113 tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other
114 event or mass gathering being held outdoors or within a temporary structure or at
115 a site and for a purpose different from the permitted use and usual occupancy of the
116 premises or site. Such special events may be administratively approved by the
117 Director or his or her designee, when, in his or her judgment, the proposal will not
118 impair the purpose and intent of the zoning ordinance, and when the use is not so
119 recurring in nature as to constitute a permanent use not otherwise permitted in the
120 district, and when the use will not significantly affect the surrounding properties.

121
122 In determining whether to administratively approve the special event, the Director
123 or his or her designee shall take into account considerations including (but not
124 limited to) the following: the estimated number of attendees; the size of the parcel
125 where the special event is to be located; the parking requirements of the special
126 event; roads and traffic patterns providing access to the special event; prior events
127 conducted by the applicant; noise, light, odor, and dust generated by the special
128 event; proposed hours of operation and number of consecutive days; and such other
129 considerations that may be applicable to the requested event. The Director or his
130 or her designee may impose conditions upon an administrative approval, including
131 (but not limited to) hours of the event and maximum attendance. No more than three
132 (3) special events shall be approved for the same property or premises during a
133 calendar year. Each calendar day of a special event shall be counted as a separate
134 special event, not including reasonable time required for set up and removal when
135 the event is not otherwise underway.

136
137 All special events, regardless of size, use or duration, shall be subject to the
138 requirements of the Sussex County Special Event Policy. Special events that do not
139 meet these requirements or which are not administratively approved shall require a

140 conditional use. Special events that are small in size and do not affect surrounding
141 properties shall not require administrative approval.

142
143 **Section 5.** The Code of Sussex County, Chapter 115, Article X, §115-71 is hereby
144 amended as follows:

145 **§115-71 Conditional uses.**

146 The following uses may be permitted as a conditional use when approved in
147 accordance with the provisions of Article XXIV of this chapter:

148 . . .

149 Special Events such as circuses or carnival grounds, amusement parks or midways,
150 festivals, concerts, race/walks or any other special event or gathering being held
151 outdoors or within a temporary structure or at a site and for a purpose different from
152 the designated use and usual occupancy of the premises and located on
153 unincorporated lands within Sussex County, permanently or for a temporary time
154 period exceeding three days. [Special events as defined herein, with a duration not
155 exceeding three days, are not subject to the conditional use process. Upon receipt
156 of an application, the Director or his/her designee may grant approval of a special
157 event not exceeding three days.] Special Events not approved by the Director as a
158 permitted use under §115-69 shall require a conditional use permit. All special
159 events regardless of duration, shall be subject to the requirements of the Sussex
160 County Special Event Policy.

161 . . .

162
163 **Section 6.** The Code of Sussex County, Chapter 115, Article XI, §115-77 is hereby
164 amended by inserting a new subparagraph A.(27) as follows:

165 **§115-77 Permitted uses.**

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

167 . . .

168 Schools for industrial training, trade or business

169 Special events such as circuses, carnivals, midways, promotional and tent sales
170 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or

171 mass gathering being held outdoors or within a temporary structure or at a site and
172 for a purpose different from the permitted use and usual occupancy of the premises
173 or site. Such special events may be administratively approved by the Director or his
174 or her designee, when, in his or her judgment, the proposal will not impair the
175 purpose and intent of the zoning ordinance, and when the use is not so recurring in
176 nature as to constitute a permanent use not otherwise permitted in the district, and
177 when the use will not significantly affect the surrounding properties.

178
179 In determining whether to administratively approve the special event, the Director
180 or his or her designee shall take into account considerations including (but not
181 limited to) the following: the estimated number of attendees; the size of the parcel
182 where the special event is to be located; the parking requirements of the special
183 event; roads and traffic patterns providing access to the special event; prior events
184 conducted by the applicant; noise, light, odor, and dust generated by the special
185 event; proposed hours of operation and number of consecutive days; and such other
186 considerations that may be applicable to the requested event. The Director or his
187 or her designee may impose conditions upon an administrative approval, including
188 (but not limited to) hours of the event and maximum attendance. No more than three
189 (3) special events shall be approved for the same property or premises during a
190 calendar year. Each calendar day of a special event shall be counted as a separate
191 special event, not including reasonable time required for set up and removal when
192 the event is not otherwise underway.

193
194 All special events, regardless of size, use or duration, shall be subject to the
195 requirements of the Sussex County Special Event Policy. Special events that do not
196 meet these requirements or which are not administratively approved shall require a
197 conditional use. Special events that are small in size and do not affect surrounding
198 properties shall not require administrative approval.

199
200 Tourist homes or rooming house

201
202

203
204 **Section 7.** The Code of Sussex County, Chapter 115, Article XI, §115-79 is hereby
205 amended as follows:

206 **§115-79 Conditional uses.**

207 The following uses may be permitted as a conditional use when approved in
208 accordance with the provisions of Article XXIV of this chapter:

209 . . .

210 Special Events such as circuses or carnival grounds, amusement parks or midways,
211 festivals, concerts, race/walks or any other special event or gathering being held
212 outdoors or within a temporary structure or at a site and for a purpose different from
213 the designated use and usual occupancy of the premises and located on
214 unincorporated lands within Sussex County, permanently or for a temporary time
215 period exceeding three days. [Special events as defined herein, with a duration not
216 exceeding three days, are not subject to the conditional use process. Upon receipt
217 of an application, the Director or his/her designee may grant approval of a special
218 event not exceeding three days.] Special Events not approved by the Director as a
219 permitted use under §115-77 shall require a conditional use permit. All special
220 events regardless of duration, shall be subject to the requirements of the Sussex
221 County Special Event Policy.

222 . . .

223 **Section 8.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.2 is
224 hereby amended as follows:

225 §115-83.2 **Permitted uses.**

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

227 . . .

228
229 Schools for industrial training, trade or business

230
231 Special events such as circuses, carnivals, midways, promotional and tent sales
232 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or
233 mass gathering being held outdoors or within a temporary structure or at a site and
234 for a purpose different from the permitted use and usual occupancy of the premises
235 or site. Such special events may be administratively approved by the Director or his
236 or her designee, when, in his or her judgment, the proposal will not impair the
237 purpose and intent of the zoning ordinance, and when the use is not so recurring in
238 nature as to constitute a permanent use not otherwise permitted in the district, and
239 when the use will not significantly affect the surrounding properties.

240

241 In determining whether to administratively approve the special event, the Director
242 or his or her designee shall take into account considerations including (but not
243 limited to) the following: the estimated number of attendees; the size of the parcel

244 where the special event is to be located; the parking requirements of the special
245 event; roads and traffic patterns providing access to the special event; prior events
246 conducted by the applicant; noise, light, odor, and dust generated by the special
247 event; proposed hours of operation and number of consecutive days; and such other
248 considerations that may be applicable to the requested event. The Director or his
249 or her designee may impose conditions upon an administrative approval, including
250 (but not limited to) hours of the event and maximum attendance. No more than three
251 (3) special events shall be approved for the same property or premises during a
252 calendar year. Each calendar day of a special event shall be counted as a separate
253 special event, not including reasonable time required for set up and removal when
254 the event is not otherwise underway.

255
256 All special events, regardless of size, use or duration, shall be subject to the
257 requirements of the Sussex County Special Event Policy. Special events that do not
258 meet these requirements or which are not administratively approved shall require a
259 conditional use. Special events that are small in size and do not affect surrounding
260 properties shall not require administrative approval.

261 Tourist homes or rooming house

263

264
265 **Section 9.** The Code of Sussex County, Chapter 115, Article XIA, §115-83.5 is
266 hereby amended as follows:

267 **§115-83.5 Conditional uses.**

268 The following uses may be permitted as a conditional use when approved in
269 accordance with the provisions of Article XXIV of this chapter:

270 . . .

271 Special Events such as circuses or carnival grounds, amusement parks or midways,
272 festivals, concerts, race/walks or any other special event or gathering being held
273 outdoors or within a temporary structure or at a site and for a purpose different from
274 the designated use and usual occupancy of the premises and located on
275 unincorporated lands within Sussex County, permanently or for a temporary time
276 period exceeding three days. [Special events as defined herein, with a duration not
277 exceeding three days, are not subject to the conditional use process. Upon receipt
278 of an application, the Director or his/her designee may grant approval of a special

279 event not exceeding three days.] Special Events not approved by the Director as a
280 permitted use under §115-83.2 shall require a conditional use permit. All special
281 events regardless of duration, shall be subject to the requirements of the Sussex
282 County Special Event Policy.

283 . . .

284 **Section 10.** The Code of Sussex County, Chapter 115, Article XII, §115-85 is
285 hereby amended by as follows:

286 **§115-85 Permitted uses.**

287 A. A building or land or water area shall only be used for the following purposes,
288 in all cases subject to site plan review by the Planning and Zoning Commission in
289 accord with procedures of §115-219 for docks, piers, bulkheads, breakwaters or
290 other over-water structures, except private over-water piers and boathouses
291 accessory to a dwelling:

292 . . .

293
294 Retail sale or rental of boating, fishing, hunting, diving and bathing supplies and
295 equipment or clothing and fish bait

296
297 Special events such as circuses, carnivals, midways, promotional and tent sales
298 events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or
299 mass gathering being held outdoors or within a temporary structure or at a site and
300 for a purpose different from the permitted use and usual occupancy of the premises
301 or site. Such special events may be administratively approved by the Director or his
302 or her designee, when, in his or her judgment, the proposal will not impair the
303 purpose and intent of the zoning ordinance, and when the use is not so recurring in
304 nature as to constitute a permanent use not otherwise permitted in the district, and
305 when the use will not significantly affect the surrounding properties.

306
307 In determining whether to administratively approve the special event, the Director
308 or his or her designee shall take into account considerations including (but not
309 limited to) the following: the estimated number of attendees; the size of the parcel
310 where the special event is to be located; the parking requirements of the special
311 event; roads and traffic patterns providing access to the special event; prior events
312 conducted by the applicant; noise, light, odor, and dust generated by the special
313 event; proposed hours of operation and number of consecutive days; and such other
314 considerations that may be applicable to the requested event. The Director or his

315 or her designee may impose conditions upon an administrative approval, including
316 (but not limited to) hours of the event and maximum attendance. No more than three
317 (3) special events shall be approved for the same property or premises during a
318 calendar year. Each calendar day of a special event shall be counted as a separate
319 special event, not including reasonable time required for set up and removal when
320 the event is not otherwise underway.

321
322 All special events, regardless of size, use or duration, shall be subject to the
323 requirements of the Sussex County Special Event Policy. Special events that do not
324 meet these requirements or which are not administratively approved shall require a
325 conditional use. Special events that are small in size and do not affect surrounding
326 properties shall not require administrative approval.

327
328 Telephone stations or booths, including drive-in or talking-from-car stations, and
329 telephone central offices, provided that all storage of materials, all repair facilities
330 and all house or repair crews are within a completely enclosed area.

331
332

333
334 **Section 11.** The Code of Sussex County, Chapter 115, Article XII, §115-87 is
335 hereby amended as follows:

336 **§115-87 Conditional uses.**

337 The following uses may be permitted as a conditional use when approved in
338 accordance with the provisions of Article XXIV of this chapter:

339 . . .

340 Special Events such as circuses or carnival grounds, amusement parks or midways,
341 festivals, concerts, race/walks or any other special event or gathering being held
342 outdoors or within a temporary structure or at a site and for a purpose different from
343 the designated use and usual occupancy of the premises and located on
344 unincorporated lands within Sussex County, permanently or for a temporary time
345 period exceeding three days. [Special events as defined herein, with a duration not
346 exceeding three days, are not subject to the conditional use process. Upon receipt
347 of an application, the Director or his/her designee may grant approval of a special
348 event not exceeding three days.] Special Events not approved by the Director as a
349 permitted use under §115-85 shall require a conditional use permit. All special

350 events regardless of duration, shall be subject to the requirements of the Sussex
351 County Special Event Policy.

352 . . .

353 **Section 12.** Effective Date.

354 This Ordinance shall take effect immediately upon the adoption by Sussex County
355 Council.

356 **SUMMARY**

357 “Special Events” are currently within the Conditional Use sections of several of the
358 various zoning districts; however, in certain circumstances the Code provides that
359 they can be permitted without a Conditional Use. This ordinance moves the
360 “permitted” Special Events to the “Permitted Uses” section of the districts. Then, if
361 the proposal does not fall under the permitted use or is not approved as such, it will
362 require a Conditional Use. This amendment also gives the Director greater
363 discretion, clarity and guidance in determining whether to approve a special event
364 request or require a Conditional Use application.

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: September 6, 2018

RE: County Council Report for Ord. 18-10 Forested Landscape Buffer

The Planning and Zoning Commission held a public hearing on August 9, 2018. The following are the draft minutes for the proposed ordinance from the Planning and Zoning Commission meetings.

Ms. Cornwell advised the Commission that submitted into the record were several letters of support and opposition for the proposed Ordinance.

Mr. Robertson stated the Code has an existing minimum 20 foot forested and/or landscaped buffer requirement around every subdivision; that has been in effect for 10 years; that according to law, an Ordinance must restate the Code and show the proposed changes and deletions; that underlined or italic text shows anything added to the Code; that the 20 foot was the depth of the buffer, and for every 100 feet of buffer, there are 15 trees to be added; that this is proposed to be increased to 25 trees per 100 feet; and that in Chapter 99-5 there would be a requirement to maintain existing vegetation when possible.

The Commission found that no one spoke in favor of the Ordinance.

The Commission found Mark Moore, Michaelena Hayes, Jim Fuqua, and Ring Lardner spoke in opposition to the Ordinance; that Mr. Moore stated he thinks that the Ordinance needs more time; that it is too simplified and need to have time to discuss the Ordinance; that this will limit developers and the design of communities; that a lot of the spirit of this Ordinance will maintain the beauty of the area but it may sacrifice mature woods and other natural areas; that there are better ways; that maybe they could use an average buffer and other creative ways to achieve the goal to maintain the charm; that Ms. Hayes stated her thoughts are similar to Mr. Moore's; that if they stayed with the 20 foot buffer but maybe impose a 20 easement that could not be built upon and adjacent to that buffer to keep the 40 foot buffer; that this would reduce the number of inward lots and with the roads to meet the lot depth; that there needs to be more time; that Mr. Fuqua stated he hasn't heard an explanation of why; that this could limit open space from the interior; that the developers try to have lots back up to open space; that he is not for or against; that Mr. Robertson stated there is a question of whether the 20 foot buffer is sufficient; that the trees along the perimeter of the subdivisions improve the visual landscape of the County; that the County is trying to accommodate the new lots, by creating more visual open space around the perimeters of



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

subdivisions; that with cluster subdivisions, AR-1 subdivisions, and subdivisions in ESDDOZ they get to use open space to count toward the density, so the total of lots is not reduced; that Mr. Lardner stated the County recently adopted new road design standards with 50 foot Right of Way; that the new stormwater regulations keep reducing the amount of land to use; and that the buffer impacts more than just the perimeter.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 4-0. Ms. Stevenson was absent.

At their meeting of August 23, 2018, the Planning Commission discussed the application which has been deferred since August 8, 2018.

Ms. Stevenson stated that she had reviewed the record and listened to the recording and was able to vote on the application.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

Introduced 07/17/2018

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS.

WHEREAS, it is determined that in order to best serve the health, safety and welfare of the citizens of Sussex County, it is necessary to revise the Code of Sussex County in respect to the provision of a forested buffer on lands that are to be subdivided for residential use; and

WHEREAS, it is the intention of County Council that, with the exceptions noted herein, 40-foot-wide forested and/or landscaped buffers shall now be required along every boundary of any subdivision; and

WHEREAS, such buffers will increase the separation distance between residential developments and will improve the likelihood that existing vegetation will be retained within the larger buffer area; and

WHEREAS, such buffers will maintain the rural and agricultural appearance of Sussex County; and

WHEREAS, the 40 foot buffers will benefit the health, safety and welfare of Sussex County and its residents by providing additional, contiguous open space along the perimeter of all subdivisions, thereby improving the visual landscape of the County; and

WHEREAS, such a change requires the amendment of Sections 99-5 and 99-16D of the Subdivision Code.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend Sussex County Code, Chapter 99, Article I, § 99-5 “Definitions” by amending the definition of “FORESTED AND/OR LANDSCAPED BUFFER STRIP” as follows:

Section 99-5. Definitions.

...

FORESTED AND/OR LANDSCAPED BUFFER STRIP – A strip of land, not less than [20] 40 feet in width, exclusive of any residential lots, stormwater management areas or facilities, open space (except that the land area within the buffer strip may be included in

the overall calculation of open space), recreational amenities, wastewater treatment and/or disposal facilities, water treatment facilities, streets, buildings or other surface improvements and located along the entire outer perimeter of any portion of a major subdivision of lands into four or more lots adjacent to land of other ownership. A landscape plan for the buffer shall be designed and certified to by a licensed landscape architect, licensed forester or forester designated by the Society of American Foresters as a “certified forester”. The landscape plan shall be reviewed and commented on by the State Forester and shall be subject to the final review and approval of the Commission. The following conditions shall apply to the forested buffer:

- A. All trees that are to be planted shall include a mix of 70% deciduous shade trees and 30% evergreen trees, a majority of which shall be suitable trees of common local species, which may include existing as well as planted trees. Every 100-foot length of buffer shall include a minimum total of [15] 25 trees *that must be staggered throughout the 40 foot width of the buffer to fill out the entire width of the buffer and create a natural appearance*; and
- B. All deciduous trees that are planted to establish the buffer plantings shall have a minimum caliper of 1.5 inches and a minimum height of 6 feet above ground when planted in order to ensure that the trees will be capable of obtaining a minimum height of 10 feet above ground within 5 years of being planted; and
- C. All evergreen trees that are planted to establish the buffer plantings shall have a minimum height of 5 feet above ground when planted in order to ensure that they are reasonably capable of attaining a minimum height of 10 feet above ground within 5 years of being planted; and
- D. *Sussex County desires the maintenance of existing vegetation whenever possible within the buffer area. In that regard, and upon a submission of an [The] existing landscape plan [may include] showing suitable existing deciduous and evergreen trees of common local species, the existing vegetation may be maintained in lieu of the planting requirements set forth in Subsection A hereof provided they will achieve the overall goal of the plan as described in Subsection E hereof and provided that said existing trees survive the site work construction activity and any changes in the water table and exposure which may result from the construction activity [occurring prior to the date the buffer plantings are required to be installed as provided in Subsection F hereof]. When existing vegetation is to be maintained, the buffer area shall be clearly designated as a non-disturbance area with all silt fencing located outside of the buffer area (i.e., between the buffer and the area of disturbance associated with development)*; and
- E. The goal of the landscape plan for the forested buffer area shall be to include trees of the type indicated herein that will be planted in a staggered natural manner, as opposed to being planted in row fashion, which will filter views from and into the subdivision in such a manner that the areas on the agricultural side

of the buffer area appear more green and less visible and the structures or uses on the subdivision side appear less obvious and less dense than if no landscaping had been required. The procedures and details for planting new trees shall be specified by the landscape architect on the plan submitted to and approved by the Commission and shall include the requirement that the buffer area shall have a final grade that contains a minimum of 4 inches of topsoil and a suitable grass mix planted as sacrificial cover between the buffer trees for soil stabilization until the newly planted trees become larger. The plan may substitute woodchips for planted grass between the buffer trees in respect to both newly planted and existing trees, as determined by the landscape architect; and

- F. The forested and/or landscape buffer shall be installed within 18 months from the date site work is authorized to commence, as documented by a notice to proceed letter from the Commission. For subdivisions that are approved to be constructed in phases, the buffer for each phase must be completed before County approvals or permits will be granted to construct the next phase; and
- G. The land developer shall be held responsible for the health and survival of the trees, including regular necessary watering for a minimum of 2 years or until such later date as the maintenance responsibilities are transferred to a homeowner's association, provided however that the developer shall replace any trees that die during the minimum 2-year developer maintenance prior to transferring maintenance responsibilities to a homeowner's association; and
- H. The perpetual maintenance of the buffer plantings by a homeowner's association shall be assured through the restrictive covenants and/or homeowners association documents. The perpetual maintenance plan shall include the requirement that any trees that die must be replanted with trees of the same type and species and in accordance with the original landscape plan approved by the County. The perpetual maintenance plan shall also include a requirement that the forested buffer area be planted and maintained according to best management practices in the forestry industry. The responsibility for the perpetual maintenance of the buffer strip and its plantings shall be assured through restrictive covenants which are obligatory upon the purchasers through assessments by the homeowner's association. The applicant and/or land developer must provide the Commission with satisfactory proof that the covenants include a perpetual maintenance plan which shall be binding upon the applicant and/or developer during the minimum 2-year period described in subsection G above and thereafter by the homeowner's association. The Commission and its attorney shall review and approve the perpetual maintenance plan prior to the restrictive covenants being recorded and prior to granting final site plan approval.
- I. The [20] 40-foot forested and/or landscape buffer strip is not required to be installed in those portions of the subdivision perimeter which (1) represent the width of a right-of-way connector road or street that DelDOT or the Commission

required the applicant to install pursuant to § 99-17.D and the width of a stormwater outfall shown on the final site plan to drain surface or stormwater outside the perimeter of the subdivision.

- J. The landscape plan shall avoid placing planted trees or allowing existing trees to remain in the areas adjacent to entrances into and exits from the development in such a manner as to restrict the view of motorists in such a manner as to create a potential safety hazard.
- K. Notwithstanding any other provisions of this ordinance, the Planning and Zoning Commission shall be authorized, as part of the site plan review process, to grant final approval of a plan for the roadway frontage of a major subdivision which may include landscape and design features such as fences, walls, berms, landscape plantings of shrubs, ornamental grasses and/or trees, multi-modal paths required by DelDOT, open areas, or a combination of such features which is designed and certified to by a licensed landscape architect, licensed forester or forester designated by the Society of American Foresters as a Certified Forester and reviewed and commented upon by the State Forester, for the purpose of making the subdivision more attractive, more in keeping with the surrounding area and less visible from the roadway, provided said plan will not cause the landscape features contained in the plan to be placed in an area adjacent to the entrance in such a manner as to restrict the view of motorists entering or exiting from the subdivision or restrict the sight lines of motorists in such a manner as to create a potential safety or traffic hazard.

...

Section 2. Amend Sussex County Code, Article III, § 99-16 “Suitability of Land; Preservation of Natural Features” is hereby amended as follows:

Section 99-16. Suitability of land; preservation of natural features.

...

D. It is the intent of the county to stress the preservation of all agricultural lands which are feasible and worthwhile of such preservation in order to conserve such natural amenities. Where residential subdivisions are established adjacent to lands used for agricultural purposes, the subdivider shall ensure that there shall be no negative effect on the agricultural uses. The [20] 40-foot wide forested and/or landscaped buffer strip required by Section 99-5 shall be provided along the outer perimeter of any boundary of a residential major subdivision or development of 4 or more lots that is adjacent to agricultural farmland. “Agricultural purposes: shall be as defined as those uses identified in Chapter 115, Zoning, Article IV, § 115-20, subsection B(1), (2), (3), (4) and (5).

Section 3. Effective Date.

This Ordinance shall apply to subdivision applications filed in the Office of Planning and Zoning after the date this Ordinance is adopted.

PROPOSED

To Be Introduced 09/18/18

**Council District No. 4 – Cole
Tax I.D. No. 334-13.00-181.00
911 Address: 35568 Airport Road, Rehoboth Beach**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE AND INVESTING OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.5005 ACRE, MORE OR LESS

WHEREAS, on the 26th day of July 2018, a conditional use application, denominated Conditional Use No. 2153, was filed on behalf of Cassandra Toroian; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2153 be _____; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2153 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southwest side of Airport Road, approximately 100 feet southeast of Old Landing Road, and being more particularly described in the attached deed prepared by Tunnell & Raysor, P.A., said parcel containing 0.5005 acre, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

To Be Introduced 09/18/18

**Council District No. 2 – Wilson
Tax I.D. No. 231-6.00-21.00 and 22.01
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 158.75 ACRES, MORE OR LESS

WHEREAS, on the 5th day of September 2018, a conditional use application, denominated Conditional Use No. 2155, was filed on behalf of Stockley Materials, LLC; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2155 be _____; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2155 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Nanticoke Hundred, Sussex County, Delaware, and lying on the southwest side of Seashore Highway (Route 18), approximately 0.72 mile southeast of Gravelly Branch Road, and being more particularly described in the attached legal description prepared by Pennoni Associates, Inc., said parcel containing 158.75 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

To Be Introduced 09/18/18

**Council District No. 4 - Cole
Tax I.D. No. 234-34.08-45.00
911 Address: 32676 Oak Orchard Road, Millsboro**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.194 ACRES, MORE OR LESS

WHEREAS, on the 31st day of August 2018, a zoning application, denominated Change of Zone No. 1869, was filed on behalf of WMF Watercraft and Marine; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1869 be _____; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [GR General Residential District] and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Indian River Hundred, Sussex County, Delaware, and lying on the southwest side of Oak Orchard Road, approximately 551 feet north of River Road, and being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, said parcel containing 1.194 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

To Be Introduced 09/18/18

**Council District No. 4 - Cole
Tax I.D. No. 334-13.00-325.36
911 Address: N/A**

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.001 ACRES, MORE OR LESS

WHEREAS, on the 31st day of August 2018, a zoning application, denominated Change of Zone No. 1870, was filed on behalf of Coroc/Rehoboth III, LLC; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1870 be _____; and

WHEREAS, on the ____ day of _____ 2018, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of C-3 Heavy Commercial District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the north side of Holland Glade Road, approximately 575 feet east of Coastal Highway (Route 1), and being more particularly described in the attached legal description prepared by Davis, Bowen & Friedel, Inc., said parcel containing 10.001 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.