



# **Sussex County Council Public/Media Packet**

**MEETING:  
November 28, 2017**

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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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CLERK

# Sussex County Council

## A G E N D A

NOVEMBER 28, 2017

10:00 A.M.

### Call to Order

### Approval of Agenda

### Approval of Minutes

### Reading of Correspondence

### Public Comments

### Todd Lawson, County Administrator

1. Wastewater Agreement No. 666-2  
Sussex County Project No. 81-04  
The Woodlands of Pepper's Creek – Phase 2 (Construction Record)  
Dagsboro/Frankford Sanitary Sewer District
2. 2018 Holiday Schedule and Council Schedule
3. Administrator's Report

### 10:15 a.m. Public Hearing

Carillon Woods Expansion of the Sussex County Unified Sanitary Sewer District  
(Long Neck Area)

### Gina Jennings, Finance Director

1. Fourth Quarter Employee Recognition Awards





**Janelle Cornwell, Planning and Zoning Director**

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

**Hans Medlarz, County Engineer**

1. General Labor & Equipment Contract
  - A. Change Order No. 8
2. Wolfe Neck Administrative Building Remediation Repairs
  - A. Balancing Change Order and Substantial Completion

**John Ashman, Director of Utility Planning**

1. Use of Existing Infrastructure Agreement – Salt Aire
2. Use of Existing Infrastructure Agreement – Middle Creek Preserve

**Grant Request**

1. Greater Seaford Chamber of Commerce for parade expenses

**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. Public Hearings**

**Change of Zone No. 1830 filed on behalf of H. Dale Parsons**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS” (located at the southeast corner of Lewes Georgetown Highway (Route 9) and Steiner Road) (Tax I.D. No. 135-16.00-23.00) (911 Address: Not Available)**

**Change of Zone No. 1831 filed on behalf of East Gate Farm, Inc.**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS” (located on the south side of Cedar Neck Road, approximately 900 feet east of Coastal Highway (Route One) (Tax I.D. No. 330-11.00-73.09) (911 Address: Not Available)**

**Change of Zone No. 1833 filed on behalf of Eagles Nest Fellowship Church**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR LESS” (located at the northeast corner of Reynolds Road and Broadkill Road (Tax I.D. No. 235-15.00-7.01) (911 Address: 13275 Reynolds Road and 26381 Broadkill Road, Milton)**

**Conditional Use No. 2105 filed on behalf of Thomas R. Engel**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS” (located on the northwest side of Doddtown Road, approximately 1,600 feet southwest of Harbeson Road (Route 5) (Tax I.D. No. 235-30.00-103.09) (911 Address: 20132 Doddtown Road, Harbeson)**



**Special Events Ordinance**

**“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”**

**Adjourn**

\*\*\*\*\*

Sussex County Council meetings can be monitored on the internet at [www.sussexcountypa.gov](http://www.sussexcountypa.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on November 21, 2017, at 4:30 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.

# # # #



**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 7, 2017**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 7, 2017 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**Councilman Samuel R. Wilson, Jr. was absent.**

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 558 17  
Approve  
Agenda**

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

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Minutes**

**The minutes of October 31, 2017 were approved by consent.**

**Public  
Comments**

**Public Comments:**

**Paul Reiger commented on matters discussed at the November 6, 2017 Board of Adjustment meeting. He advised that letters are to be sent to the County Council and he asks that the letters be read during public session, once the letters have been received.**

**Dan Kramer commented on having to go through the metal detector on this date.**

**Sam Deetz spoke regarding right-to-work legislation.**

**Update on  
Compre-  
hensive  
Plan**

**Mr. Lawson, along with Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented the timeline/schedule/framework for the Comprehensive Land Use Plan Update.**



**Update on  
Compre-  
hensive  
Plan  
(continued)**

Mr. Lawson reported that Council workshops will begin in December (December 6 and 13); however, over the next two weeks, the Council will begin to review the Plan and have discussions with the Consultant, McCormick Taylor. It was noted that agendas will be developed based on work flow. Mr. Lawson reviewed the proposed order of items/chapters to be considered. It was further noted that information can be found on the Comprehensive Plan website at [sussexplan.com](http://sussexplan.com) and that comments on the Plan can still be submitted via that website. Ms. Cornwell noted that the comments that came into the website for the Planning and Zoning Commission will be included in the comments received for the Sussex County Council.

**Time  
Extension  
Request/  
Subdivision  
2005-52  
and  
2008-25**

Janelle Cornwell, Planning and Zoning Director, presented a request for a six-month time extension for Subdivision 2005-52 and 2008-25 for the Marsh Island Subdivision. This subdivision application was granted final approval by the Planning and Zoning Commission on December 13, 2012 for the construction of 152 single family dwellings. The property is located on the northeast side of Camp Arrowhead Road north of Water View Road. Ms. Cornwell commented on the status of agency approvals and reported that the only agency approval that they are waiting for is for the Notice to Proceed from the Sussex County Engineering Department. Ms. Cornwell recommended that the time extension be granted.

**M 559 17  
Grant  
Time  
Extension/  
Subdivision  
2005-52  
and  
2008-25**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the six-month time extension be granted for Subdivision 2005-52 and 2008-25 (Marsh Island), expiring in July 2018.

**Motion Adopted:** 3 Yeas, 2 Absent.

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

**Contract  
Amendment  
for GHD  
Base  
Contract/  
SCRWF**

Hans Medlarz, County Engineer, presented for Council's consideration Amendment No. 13 under the GHD, Inc. Base Contract, Electrical and Controls Value Engineering and Constructability Review, for the South Coastal Regional Wastewater Facility (SCRWF). Mr. Medlarz reported that this came about during the final design process to harness cost savings items associated with electrical, instrumentation and controls design for both SCRWF and the City of Rehoboth Beach facility, well in excess of the cost of the amendment. Amendment No. 13 is in an amount not to exceed \$95,089.94.

**M 560 17  
Approve  
Amendment  
to Base  
Engineering  
Contract  
with GHD**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Amendment No. 13 to the Base Engineering Contract with GHD, Inc. be approved in the amount not to exceed \$95,089.94 for Electrical and Controls Value Engineering and Constructability Review at the South Coastal Regional Wastewater Facility design process.



**M 560 17  
(continued)**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Wolfe Neck  
Regional  
Wastewater  
Facility/  
Pole  
Building  
Project**

**Hans Medlarz, County Engineer, presented the bid results for the Wolfe Neck Regional Wastewater Facility Pole Building Project (Project No. 18-10). Mr. Medlarz noted that, in the FY 2018 Budget, Council approved the construction of a pole building to house equipment. Three bid were received; the Engineering Department recommends award to Humphries Construction, Inc., the low bidder, for their Base Bid and Additive Bids B-1, B-2 and B-3, in the total amount of \$119,999.00.**

**M 561 17  
Award  
Bid/  
Wolfe  
Neck  
Regional  
Wastewater  
Facility/  
Pole  
Building  
Project**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the bids for Contract 18-10, Wolfe Neck Regional Wastewater Facility Pole Building, be awarded to Humphries Construction, Inc. of Greenwood for the Base Bid and Additive Bids B-1, B-2 and B-3 in the total amount of \$119,999.00.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Use of  
Existing  
Infra-  
structure  
Agreement/  
Marsh  
Island**

**John Ashman presented a proposed Use of Existing Infrastructure Agreement with Marsh Island Partners, LLC for the Marsh Island project in the Angola Neck Area. Under the proposed arrangement, Marsh Island development will construct an on-site pump station that will connect to an existing regional forcemain on Camp Arrowhead Road. In return for utilization of said infrastructure, Marsh Island Partners, LLC will contribute \$170,805.95 for the perpetual use of these transmission facilities.**

**M 562 17  
Approve  
Use of  
Existing  
Infra-  
structure  
Agreement/  
Marsh  
Island**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Marsh Island Partners, LLC for a capacity allocation in the Regional Transmission System, as presented.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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



**Joy Beach  
Expansion/  
SCUSSD  
(Angola  
Neck  
Area)  
(continued)**

John Ashman, Director of Utility Planning, reported that permission to prepare and post notices for the Joy Beach Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) was granted by Council on August 29, 2017; that the notice referenced the proposed expansion which would include the Joy Beach Community and parcels along Waterview Road and Bookhammer Landing Road from Camp Arrowhead Road to Joy Beach; that polling letters were mailed to the community and adjacent parcels and the area posted; that a Public Hearing was held on October 20, 2017; that following the Public Hearing, residents were given the opportunity to change their decision made on their polling letters; owners of five parcels changed their decision; that the revised numbers show that 35 indicated an immediate need, 29 indicated a future need, and 31 indicated no need; that this represents 95 of 105 lots responding; that the boundary was approved for posting; that an additional parcel (Happy Go Lucky Trailer Park) submitted a letter requesting to be included in the proposed expansion; that the trailer park consists of 34 trailers or permanent campers connected to cesspools; and that the Engineering Department recommends proceeding with this annexation with the boundary, as proposed, and including the Happy Go Lucky Trailer Park.

**M 563 17  
Adopt  
R 030 17**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adopt Resolution No. R 030 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE JOY BEACH AREA, SEVERAL PARCELS OF LAND ALONG THE EAST SIDE OF CAMP ARROWHEAD ROAD, HAPPY GO LUCKY AND BOTH SIDES OF BOOKHAMMER LANDING ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

**Motion Adopted:** 3 Yeas, 2 Absent.

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

**Conley's  
Chapel  
Village  
Expansion  
of the  
SCUSSD**

John Ashman, Director of Utility Planning, reported that permission to prepare and post notices for the Conley's Chapel Village Expansion of the Sussex County Unified Sanitary Sewer District (Chapel Branch Area) was granted by Council on August 29, 2017; that polling letters were mailed to the community and adjacent parcels and the area was posted; that a Public Hearing was held on October 20, 2017; that following the Public Hearing, residents were given the opportunity to change their decision made on their polling letters; and that the revised numbers show that 16 indicated an immediate need, 11 indicated a future need, and 11 indicated no need; and that this represents 38 of 44 parcels responding.



**Conley's  
Chapel  
Village  
(continued)**

**Mr. Ashman reported that a request for inclusion was received from a neighboring property owner; the property is owned by Robert Clark who also owns another parcel within Conley's Chapel Village.**

**Mr. Ashman advised that the Engineering Department recommends proceeding with this annexation with the boundary, as proposed, and including the property owned by Robert Clark.**

**M 564 17  
Adopt  
R 031 17**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 031 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) CHAPEL BRANCH AREA, TO INCLUDE THE SUBDIVISION KNOWN AS CONLEY'S CHAPEL VILLAGE AND TWO ADJACENT PARCELS LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Mr. Burton joined the meeting.**

**Mallard  
Creek  
Expansion  
of the  
SCUSSD  
(Holt's  
Landing  
Area)**

**John Ashman, Director of Utility Planning, reported that permission to prepare and post notices for the Mallard Creek Expansion of the Sussex County Unified Sanitary Sewer District (Holt's Landing Area) was granted by Council on August 29, 2017. Polling letters were mailed; the results showed 63 percent in favor and 38% not in favor. Notices were mailed and the area was posted; a Public Hearing was held on October 20, 2017. Mr. Ashman reported that following the Public Hearing, residents were given the opportunity to change their decision made on their polling letters; however, no changes were requested.**

**Mr. Ashman advised that the Engineering Department recommends proceeding with this annexation with the boundary, as proposed.**

**M 565 17  
Adopt  
R 032 17**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 032 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) HOLT'S LANDING AREA, TO INCLUDE THE SUBDIVISION KNOWN AS MALLARD CREEK LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".**

**Motion Adopted: 4 Yeas, 1 Absent.**



**M 565 17**  
**(continued)**

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

**Grant Requests**

Kathy Roth, Deputy Finance Director, presented grant requests.

Mr. Vincent stated that the grant request from Georgetown Little League would be deferred due to Mr. Wilson's absence.

**M 566 17**  
**Council-**  
**manic**  
**Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$600.00 (\$300.00 each from Mr. Vincent's and Mr. Arlett's Councilmanic Grant Accounts) to the Town of Blades for the Kids Christmas Party.

**Motion Adopted:** 4 Yeas, 1 Absent.

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

**Council**  
**Members'**  
**Comments**

**Council Members' Comments**

Mr. Arlett referenced Veterans Day on November 11th and expressed thanks to all veterans for their service.

**M 567 17**  
**Go Into**  
**Executive**  
**Session**

At 11:24 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session to discuss matters relating to potential litigation and land acquisition.

**Motion Adopted:** 4 Yeas, 1 Absent.

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

**Executive**  
**Session**

At 11:26 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to potential litigation and land acquisition. The Executive Session concluded at 12:18 p.m.

**M 568 17**  
**Reconvene**  
**Regular**  
**Session**

At 12:20 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

**Motion Adopted:** 3 Yeas, 2 Absent.

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



**M 569 17**      **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the**  
**Approve**      **purchase of Parcel (Land 2017-10) and that the County Administrator be**  
**Purchase**      **authorized to complete negotiations on a contract and proceed to purchase**  
**of Land**      **the parcel.**

**Motion Adopted:      3 Yeas, 2 Absent.**

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

**M 570 17**      **At 12:21 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to**  
**Recess**      **recess until 1:30 p.m.**

**Motion Adopted:      3 Yeas, 2 Absent.**

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

**M 571 17**      **At 1:30 p.m., a Motion was made by Mr. Burton, seconded by Mr. Cole, to**  
**Reconvene**      **reconvene.**

**Motion Adopted:      4 Yeas, 1 Absent.**

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

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

**Public**              **A Public Hearing was held on the Proposed Ordinance entitled “AN**  
**Hearing/**              **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**  
**CU 2103**              **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A**  
                              **RECREATION FACILITY, OFFICE, CARETAKER HOUSE, EQUINE-**  
                              **ASSISTED THERAPY AND STABLES TO BE LOCATED ON A**  
                              **CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL**  
                              **HUNDRED, SUSSEX COUNTY, CONTAINING 9.38 ACRES, MORE OR**  
                              **LESS” (Conditional Use No. 2103) filed on behalf of Southern Delaware**  
                              **Therapeutic and Recreational Horseback Riding, Inc. (Tax I.D. No. 235-**  
                              **26.00-17.14) (911 Address: 17170 Harbeson Road, Milton).**

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

**The Planning and Zoning Commission held a Public Hearing on this**  
**application on October 12, 2017 at which time the Commission**  
**recommended approval with conditions.**



**Public  
Hearing/  
CU 2103  
(continued)**

(See the minutes of the Planning and Zoning Commission dated October 12, 2017.)

An Exhibit Book was previously distributed to Council members.

Mark Davidson with Pennoni Associates was present on behalf of the application with members of the Board of Directors of Southern Delaware Therapeutic and Horseback Riding, Inc. (Scott Swingle, Tom Peet, Kelly Boyer, and Georgia Truitt). Mr. Davidson explained that this is an Association that provides therapeutic horseback riding for individuals with disabilities; that they have been in operation since 1988; that they are a non-profit association that has been using rented facilities since 1988; that they wish to have a permanent home; that they own this property; that a caretaker lives on the site; that there are four pastures and an indoor riding facility; that the site has two entrances; that ingress and egress is on the south side of the property; that no Traffic Impact Study was required; that no infrastructure is needed; that there are two existing on-site wells and an existing on-site wastewater disposal system; that the property is already zoned for agriculture and has long been used for horse stables and riding; that this use is needed in the area; and that the use will not alter the character of the neighborhood.

Public comments were heard.

Jessica Hudson and her daughter, Alyssa Hudson, spoke in support of the application. They talked about how the program benefits people with disabilities.

Paul Reiger and Dan Kramer stated that the application should only have been required to apply for a Special Use Exception from the Board of Adjustment.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 572 17  
Adopt  
Ordinance  
No. 2532/  
CU 2103**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2532 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECREATION FACILITY, OFFICE, CARETAKER HOUSE, EQUINE-ASSISTED THERAPY AND STABLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.38 ACRES, MORE OR LESS" (Conditional Use No. 2103) filed on behalf of Southern Delaware Therapeutic and Recreational Horseback Riding, Inc., with the following conditions:

- A. The hours of operation shall be 7:00 a.m. until 10:00 p.m., Monday through Sunday.



**M 572 17  
Adopt  
Ordinance  
No. 2532/  
CU 2013  
(continued)**

- B. All entrances, intersections, or other improvements required by DelDOT shall be completed by the Applicant, as required by DelDOT.**
- C. One lighted sign shall be permitted. The sign shall not exceed 32 square feet per side.**
- D. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. Any dumpsters shall be screened from view of neighboring properties or roadways.**
- F. The failure to abide by the conditions shall result in the termination of this Conditional Use.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Public  
Hearing/  
CZ 1829**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.58 ACRES, MORE OR LESS” (Change of Zone No. 1829) filed on behalf of Theresa Elizabeth Murray Irrevocable Trust (Tax I.D. No. 134-9.00-70.00) (911 Address: Not Available).**

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

**The Planning and Zoning Commission held a Public Hearing on this application on October 12, 2017 at which time action was deferred. On October 26, 2017, the Commission recommended that the application be approved.**

**(See the minutes of the Planning and Zoning Commission dated October 12 and 26, 2017.)**

**An Exhibit Book was previously distributed to Council members.**

**The Council found that Dennis Schrader, Attorney, was present on behalf of the application with Ellen Magee, one of the Trustees. They stated that the property is owned by the Theresa Elizabeth Murray Irrevocable Trust; that there are general commercial and high and medium density residential uses in the area; that the site is presently used as open storage for boats, trailers, and travel trailers (pursuant to Conditional Use No. 478); that the intended use of the property is a mini storage complex; that a Traffic**



**Public  
Hearing/  
CZ 1829  
(continued)**

**Impact Study was not required; that the use is needed in the area as the other storage facility in the area is full; that they would put up fencing and lighting that will be downward illuminated; that the property will be gated; that Mrs. Magee's mother lives on the property; and that a commercial designation is needed so that they can obtain funding.**

**Public comments were heard.**

**There were no public comments in support of the application.**

**Donald Gettle and John Hickman spoke in opposition to the application. They stated that the site is an eyesore; that lighting will be disruptive to area properties and they do not need more lighting; that there was supposed to be pine tress as a buffer; that the use and zoning change will impact property values and the ability to sell property in the area; that they would like to see the use stopped; that there have been boats on the property for years that have not been moved; that there have been thefts; that the area is residential and this use is out of character with the area; that a need does not exist for the use; and that there can be many permitted uses with a Change of Zone.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 573 17  
Adopt  
Ordinance  
No. 2533/  
CZ 1829**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2533 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.58 ACRES, MORE OR LESS" (Change of Zone No. 1829) filed on behalf of Theresa Elizabeth Murray Irrevocable Trust.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**M 574 17  
Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 2:25 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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



**Respectfully submitted,**

**Robin A. Griffith  
Clerk of the Council**

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

DRAFT



## **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 14, 2017**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 14, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

### **Call to Order**

Mr. Vincent called the meeting to order.

### **M 575 17 Amend and Approve Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to amend the agenda by deleting "Approval of Minutes" and to approve the agenda, as amended.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

### **Corre- spondence**

The following letters and cards were received in appreciation of the Human Service grants received: Clothing our Kids, Kent-Sussex Industries, Easter Seals, ITN Southern Delaware, Community Integrated Services, Survivors of Abuse in Recovery (SOAR), Mason Dixon Woodworkers, Alzheimer's Association, Ocean View Historical Society, Bridgeville Senior Center, Delaware Ecumenical Council on Children and Families, Ronald McDonald House of Delaware, Down Syndrome Association of Delaware, Lewes Senior Center, Clear Space Theatre Company, West Side New Beginnings, La Red Health Center, Milford Housing Development Corporation (MHDC).

### **Public Comments**

#### **Public Comments**

Susan Brooker from the Delaware Senior Olympics spoke in support of the proposed Sussex Sports Complex.

Dan Kramer commented on and raised questions regarding the proposed Sussex Sports Complex.



**M 576 17  
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. 1038-2  
Sussex County Project No. 81-04  
Governors – Pump Station & Force Main  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 1038-4  
Sussex County Project No. 81-04  
Governors – Phase 1A, 1B & 1C (Construction Record)  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Mr. Cole joined the meeting.**

**Delaware  
Sustainable  
Energy  
Utility/  
PACE  
Presen-  
tation**

**Tony DePrima, Executive Director of Delaware Sustainable Energy Utility (DESEU) presented PACE (Property Assessed Clean Energy), an economic development strategy for commercial properties. PACE financing is a voluntary tax assessment based financing mechanism for energy efficiency, renewable energy, and water conservation projects. Mr. DePrima reported that Senate Bill 113 would enable Delaware to join 19 other states by allowing PACE financing through a partnership between DESEU, the counties and private lenders. Mr. DePrima asked for Council's support of this legislation.**

**Sussex  
Sports  
Center  
Foundation  
Proposal**

**Mr. Lawson presented for discussion the proposal for the Sussex Sports Center in Georgetown. He noted that the proposal was first presented on September 26th by the Foundation and that, since that time, additional information has been submitted and public comments received. Joe Schell, Bobby Horsey and Zac Crouch, members of the Foundation's Leadership Committee, presented the project proposal, funding and costs, and timeline, as well as the project's approval process through DelDOT. Also present was Bill West, Mayor of the Town of Georgetown, who discussed the Town's commitment to the project. Council members discussed the proposal. Mr. Vincent stated that the Council will consider the proposal over the next few weeks and place it on a future agenda for the purpose of making a decision and giving a response to the Foundation.**

**Adminis-  
trator's  
Report**

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

- 1. Airport Advisory Committee Meeting**



**Administrator's  
Report  
(continued)**

The Delaware Coastal Airport Advisory Committee will meet on Wednesday, November 15<sup>th</sup>, at 6:00 p.m. at the Sussex County Emergency Operations Center, 21911 Rudder Lane, in Georgetown. A copy of the agenda is attached.

**2. Delaware State Police Activity Report**

The Delaware State Police year-to-date activity report for September 2017 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 189 troopers assigned to Sussex County for the month of September.

**3. Thanksgiving Holiday**

Please note that Council will not meet on Tuesday, November 21<sup>st</sup>, during the week of Thanksgiving. County offices will be closed on Thursday, November 23<sup>rd</sup>, and Friday, November 24<sup>th</sup>, for the Thanksgiving holiday and will reopen on Monday, November 27<sup>th</sup>, at 8:30 a.m. The next regularly scheduled Council meeting will be held on Tuesday, November 28<sup>th</sup>, at 10:00 a.m.

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

**Land  
Records  
Management  
System**

Scott Dailey, Recorder of Deeds, presented a recommendation to award a Request for Proposals (RFP) for a new Land Records Management System for the Recorder of Deeds office. The contract agreement would be between Pioneer Technology Group LLC and the Sussex County Recorder of Deeds. Mr. Dailey advised that a new system is necessary due to the current contract ending with ACS Enterprise Solutions LLC, now known as Conduent Enterprise Solutions LLC. He also advised that the new system will allow staff to dramatically increase work efficiency and it will also provide improved online research options for the legal community as well as improved fraud protection. There is a one-time software cost in the amount of \$65,000.00 and an implementation cost of \$91,050.00, for a total one-time cost of \$156,050.00. The annual cost will be \$24,000.00 a year; it was noted that the current annual cost is \$50,000.00.

**M 577 17  
Approve  
Purchase  
of Lands  
Records  
Management  
System**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council, based upon the recommendation of the Recorder of Deeds, through a RFP process, approves the purchase of a Lands Record Management System from Pioneer Technology Group LLC for a cost of \$156,050.00.

**Motion Adopted: 5 Yeas.**



**M 577 17  
(continued)**

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

**Aero-  
nautical  
Obstruction  
Removal/  
Project  
18-01**

Jim Hickin, Airport Manager, referenced Project No. 18-01, Aeronautical Obstruction Removal, which was awarded to Strobert Tree Services, in the amount of \$65,810.00 and he presented a Balancing Change Order which will increase the contract amount by an additional \$3,631.00.

Mr. Hickin reported that, previously, a grant was received and used to do an aerial survey for the identification of obstructions at the airport and a project scope was identified. Initially it was believed that the County would need to hire a surveyor to find/mark trees and areas to be removed; however, the Mapping and Addressing Department had purchased equipment (hand-held GPS system) that was used in lieu of hiring a surveyor, thereby resulting in a cost savings of \$7,500.00. Mr. Hicken reported that, based on field observations during the removal process, two additional trees were added (a total of 52 trees versus 50 included in the bid) and the tree removal area was increased by 11,276 square feet. This resulted in an increase in the amount of \$3,631.00. It was noted that tree removal began on October 23, 2017 and was considered Substantially Complete on October 27, 2017. The Engineering Department recommends granting Substantial Completion for the project as of October 27, 2017.

**M 578 17  
Approve  
Change  
Order/  
Aero-  
nautical  
Obstruction  
Removal/  
Project  
18-01**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract No. 18-01, Aeronautical Obstruction Removal, be approved, which increases the contract amount by \$3,631.00 for a new total of \$69,441.00 and that Substantial Completion be granted as of October 27, 2017.

**Motion Adopted:** 4 Yeas, 1 Absent.

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

**Diamond  
Acres  
Proposed  
Street-  
lighting  
District**

Patti Deptula, Director of Special Projects, presented a request to circulate a petition form for the Diamond Acres Proposed Streetlighting District. The subdivision is located on Irons Branch Road; there are a total of 23 tax parcels in the district boundary with 22 residential improvements. The community association of Diamond Acres sent a letter to the Engineering Department requesting the initiation of the process to form a Streetlighting District. Mrs. Deptula stated that the proposed layout would have an approximate cost of \$70.00 per year per assessable improvement. If approved, the petition form will be mailed to all property owners within the proposed district boundaries; if enough petitions are returned, an election will be held.



**M 579 17  
Circulate  
Petitions/  
Diamond  
Acres  
Proposed  
Street-  
lighting  
District**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council has determined that the community known as Diamond Acres satisfied the criteria of a Suburban Community, as defined in Chapter 95 of the Sussex County Streetlighting Code, Paragraph 95-1, and authorizes the Sussex County Engineering Department to circulate the petition form to determine if a Streetlighting District may be established, as required by Chapter 95 of the Sussex County Streetlighting Code.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Concord  
Road  
Utility  
Upgrade/  
Expansion  
of the  
Blades SSD**

Hans Medlarz, County Engineer, presented the bid results for Contract 15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District Area. Mr. Medlarz reported that Davis, Bowen & Friedel (DB&F), the Engineer of Record for the Town of Blades, designed a USDA/RD/RUS funded water distribution system expansion in the same vicinity of Concord Road as the County's sewer project. On October 3, 2017, the Sussex County Council approved a construction agreement with the Town and an amendment with the engineer to complete both projects concurrently for a cost effective approach. The project was bid for both the water and sewer portions and the Town and the Sussex County Engineering Department concurred on recommending award to the low bidder, Zack's Excavating, Inc. for the base bid amount of \$1,605,824.75 and the alternate bid of \$797,957.25 for a total bid of \$2,403,782.00, contingent upon USDA/RD concurrence. This bid is under the Engineer's estimate and Davis Bowen & Friedel recommends award.

**M 580 17  
Award  
Bid/  
Concord  
Road  
Utility  
Upgrade  
Contract/  
Expansion  
of the  
Blades SSD**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Base Bid for Contract 15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District Area be awarded to Zack's Excavating, Inc. of Smyrna, for a total bid of \$2,403,782.00, contingent upon receipt of supplemental funding and award concurrence by USDA.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Report on  
Ellendale  
Water  
District  
Referendum  
Grant**

John Ashman, Director of Utility Planning, presented the referendum results for the Ellendale Water District. A referendum was held on November 4, 2017; the results showed 107 in favor and 120 against. This was the tally from the voting machines and the Absentee Ballots that were received. The Referendum failed.



<b>Requests</b>	<b>Mrs. Jennings presented grant requests for the Council's consideration.</b>
<b>M 581 17 Council- manic Grant</b>	<p><b>A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 (\$500.00 each from Mr. Arlett's and Mr. Vincent's Councilmanic Grant Accounts) to the Good Samaritan Aid Organization for holiday baskets and toy outreach.</b></p> <p><b>Motion Adopted: 4 Yeas, 1 Absent.</b></p> <p><b>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea</b></p>
<b>M 582 17 Council- manic Grant</b>	<p><b>A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$3,000.00 (\$2,000.00 from Mr. Wilson's and \$1,000.00 from Mr. Vincent's Councilmanic Grant Accounts) to Georgetown Little League for operating expenses.</b></p> <p><b>Motion Adopted: 4 Yeas, 1 Absent.</b></p> <p><b>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea</b></p>
<b>Council Members' Comments</b>	<p><b><u>Council Members' Comments</u></b></p> <p><b>Mr. Arlett extended wishes to all for a Happy Thanksgiving.</b></p>
<b>M 583 17 Go Into Executive Session</b>	<p><b>At 12:17 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to potential litigation, land acquisition, and personnel.</b></p> <p><b>Motion Adopted: 4 Yeas, 1 Absent.</b></p> <p><b>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea</b></p>
<b>Executive Session</b>	<p><b>At 12:25 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to potential litigation, land acquisition, and personnel. The Executive Session concluded at 12:58 p.m.</b></p>
<b>M 584 17 Reconvene Regular Session</b>	<p><b>At 1:01 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.</b></p> <p><b>Motion Adopted: 3 Yeas, 2 Absent.</b></p>



- M 584 17**  
**(continued)**
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Absent; Mr. Cole, Absent;  
Mr. Vincent, Yea
- M 585 17**  
**Authorize**  
**Negotiations**  
**for Land**  
**Parcel**  
**2017-11**
- A Motion was made by Mr. Arlett, seconded by Mr. Burton, to authorize the County Administrator to negotiate and enter into a contract and proceed to settlement on Land Parcel 2017-11.
- Motion Adopted:** 3 Yeas, 2 Absent.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Absent; Mr. Cole, Absent;  
Mr. Vincent, Yea
- M 586 17**  
**Follow**  
**Legal**  
**Advice**  
**Regarding**  
**American**  
**Arbitration**  
**Association**  
**Case**
- A Motion was made by Mr. Burton, seconded by Mr. Arlett, to authorize the County Administrator to follow legal advice to enter into a settlement agreement on litigation under American Arbitration Association Case No. 01-17-005-2179-1-SF.
- Motion Adopted:** 3 Yeas, 2 Absent.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Absent; Mr. Cole, Absent;  
Mr. Vincent, Yea
- M 587 17**  
**Recess**
- At 1:02 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to recess until 1:30 p.m.
- Motion Adopted:** 3 Yeas, 2 Absent.
- Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Absent; Mr. Cole, Absent;  
Mr. Vincent, Yea
- M 588 17**  
**Reconvene**
- At 1:41 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, 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
- Amend**  
**E/S Motion**
- Mr. Moore reported on a housekeeping matter relating to a Motion following Executive Session on this date.
- M 589 17**  
**Land Parcel**  
**2016-9**
- A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to authorize the County Administrator to negotiate and enter into a contract and proceed to settlement on Land Parcel 2016-9 (instead of 2017-11).



**M 589 17  
Land  
Parcel  
2016-9  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Rules**

**Mr. Moore read the Rules of Procedure for zoning hearings.**

**Mr. Moore reported that both of the applications will be consolidated into a single public hearing; however, a vote will be taken on the applications individually.**

**Public  
Hearings/  
CZ 1827  
and  
CU 2098**

**A Public Hearing was held on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1827) and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (62 DUPLEX UNITS) STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Conditional Use No. 2098) (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).**

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

**Ms. Cornwell reported that three letters of opposition have been received into the record since the Planning and Zoning Commission’s public hearings.**

**The Planning and Zoning Commission held a Public Hearing on these applications on October 26, 2017 at which time action was deferred on both applications.**

**(See the minutes of the Planning and Zoning Commission dated October 26, 2017.)**

**It was noted that an Exhibit Book was previously distributed to Council members.**

**The Council found that Eugene Bayard, Attorney, was present on behalf of the Applicant with Ken Christenbury of Axiom Engineering, LLC. They stated that the property is in an area that has transitioned from a rural community to a rapidly developing medium density residential area in the Environmentally Sensitive Development District; that the Change of Zone is consistent with the character and trend of development in the immediate**



**Public  
Hearings/  
CZ 1827  
and  
CU 2098  
(continued)**

area and will have no adverse impact of any sort on neighboring or nearby properties; that the project will be served with County sewer and central water; that the project to be built on the site will be known as Fenwick Knolls and is planned for 52 residential (duplex) units, a housing type consistent with the character and trend of development in the area and, in particular, Americana Bayside; that this project is not a part of a project with additional phases; that they propose less than 4 units per acre; that a cemetery is located on the site and a study was performed to identify all human remains on the site; that a small strip of wetlands exists on the site; that this property is partially in the boundary of a tax ditch with some rights-of-way near Sand Cove Road; that no Traffic Impact Study was required; and that a Letter of No Objection was issued.

Mr. Bayard and Mr. Christenbury discussed current site conditions; stormwater management; the tax ditch; DelDOT's comments; access to the cemetery; landscaping; the preservation of open space; density; and the PLUS Review.

Public comments were heard.

There were no public comments in support of the application.

Ed Waysz, Barbara Shamp, and Christopher Magee spoke in opposition to the application. They expressed concerns about over-development and the impact of over-development on the area; the amount and depth of water during storms (Superstorm Sandy); drainage; inadequate evacuation routes; too much hardscape; traffic on Route 54; and inadequate infrastructure. They stated that existing infrastructure cannot support more development; that the tax ditch cannot handle additional run-off; that the project is out of character with the area; and that potential buyers should be made aware of farming operations in the area. Mr. Waysz and Ms. Shamp discussed the need for a moratorium on new development, and the need for a TID and a Master Plan.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 590 17  
Defer  
Action/  
CZ 1827**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1827 filed on behalf of Fenwick Commons, LLC.

Motion Adopted: 5 Yeas.

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

**M 591 17**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2098 filed on behalf of Fenwick Commons, LLC.



**M 591 17**  
**Defer**  
**Action/**  
**CU 2098**  
**(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 592 17**  
**Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 2:58 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

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

November 14, 2017

### **FACT SHEET**

SUSSEX COUNTY PROJECT 81-04  
THE WOODLANDS OF PEPPER'S CREEK - PHASE 2 (CONSTRUCTION RECORD)  
AGREEMENT NO. 666 - 2

#### **DEVELOPER:**

David Steele  
Fernmoor Homes @ Woodlands of Peppers Creek DE LLC  
1 Kathleen Drive  
Jackson, NJ 08527

#### **LOCATION:**

Town of Dagsboro - Main Street

#### **SANITARY SEWER DISTRICT:**

Dagsboro/Frankford Sanitary Sewer District

#### **TYPE AND SIZE DEVELOPMENT:**

10 Building units

#### **SYSTEM CONNECTION CHARGES:**

\$115,500.00

#### **SANITARY SEWER APPROVAL:**

Sussex County Engineering Department Plan Approval  
02/17/16

Department of Natural Resources Plan Approval  
01/06/17

#### **SANITARY SEWER CONSTRUCTION DATA:**

Construction Days – 6  
Construction Admin and Construction Inspection Cost – \$5,735.57  
Proposed Construction Cost – \$38,237.10



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



## 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  
sussexcountype.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

BRAD HAWKES  
DIRECTOR OF UTILITY ENGINEERING

**November 22, 2017**

## **PROPOSED MOTION**

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 666-2 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "FERNMOOR HOMES @ WOODLANDS OF PEPPERS CREEK DE LLC" FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "THE WOODLANDS OF PEPPER'S CREEK – PHASE 2 (CONSTRUCTION RECORD)", LOCATED IN DAGSBORO/FRANKFORD SANITARY SEWER DISTRICT.

ORDINANCE NO. 38  
AGREEMENT NO. 666-2

TODD LAWSON  
COUNTY ADMINISTRATOR



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



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: **2018 MEETING AND HOLIDAY SCHEDULE**

DATE: November 22, 2017

---

During Tuesday's meeting, the Council is scheduled to discuss and approve the 2018 Meeting and Holiday Schedule. As in past years, the County will follow the typical holiday schedule and will be closed on the traditional holidays, including:

- New Year's Day
- Martin Luther King Jr. Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Election Day
- Veterans Day
- Thanksgiving
- Christmas

Since 2018 is an election year, the County will also be closed for Return Day.

Regarding the County Council's meeting schedule, the Council is scheduled to meet every Tuesday except on days affected by a holiday and days selected to not meet, as we have done over the past several years. In total, the Council is scheduled to meet a total of 34 days. Of course, if additional meetings are required, Council can always schedule them.

A "cheat sheet" of the entire calendar year is attached.

Please let me know if you have any questions or concerns.





# SUSSEX COUNTY 2018 SCHEDULE

- County holiday; offices closed.
- No Council meeting.
- Offices closed & no Council meeting.

January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

New Year's Day

MLK Day

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

Feb. Off

March						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NACo

Easter/Good Friday

April						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Easter/Spring Break

May						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Budget Workshop

Mem. Day

June						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

July						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

July 4

July Off

August						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August Off

August Off

September						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Labor Day

Sept. Off

October						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Oct. Off

November						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Election/Return Day

Veterans Day

Thanksgiving

December						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Christmas Off

Christmas



**Carillon Woods**  
**FACT SHEET**

- Permission to prepare and post notices was granted on October 31st.
- Project known as Carillon Woods.
- Expansion was requested by Davis Bowen & Friedel for their client.
- Parcels 234-23.00-260.00 & a portion of parcel 269.18.
- The project consists of 204 Apartment units and a clubhouse.
- The project will be responsible for System Connection Charges in place at the time of connection and a Use of Existing Infrastructure Agreement will need to be executed.
- Public Hearing Notices were posted on November 9<sup>th</sup>.
- To date no contacts either in support or opposition.



# PUBLIC NOTICE

## PROPOSED EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (LONG NECK AREA)

**NOTICE IS HEREBY GIVEN** that the Sussex County Council voted on **October 31, 2017** to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Long Neck Area, to include a parcel of land along the south side of Indian Mission Road and a portion of the adjoining parcel., being situate in Indian River Hundred, Sussex County, Delaware. The parcel being district – map – parcel 234-23.00-260.00 and part of 269.18.

This action is in conformity with 9 Del.C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

**Beginning** at a point, said point being on the southerly ROW of Indian Mission Road, and a point being on the northwesternmost property line of lands N/F of Janine R. Tucker, said point further being on the Sussex County Unified Sanitary Sewer District Boundary (SCUSSD) (Long Neck Area); thence proceeding by and with said SCUSSD boundary in a generally southerly direction a distance of 1,870 feet +/- to a point, said point being the northeasternmost property corner of lands N/F of Trantino & Sandra Norwood, said point also being on the westerly property line of lands N/F of Sabra Health Care Delaware LLC; thence leaving said SCUSSD boundary and proceeding by and with said Norwood lands the following directions northwesterly, northerly, northwesterly, northerly and northeasterly a total distance of 1190 feet +/- to a point, said point being the southernmost property corner of lands N/F of Roger B. Wooleyhan, Jr.; thence leaving said Norwood property and proceeding by and with said Wooleyhan lands in a northerly direction a distance of 435 feet +/- to a point, said point being the southernmost property corner of lands N/F of Elizabeth Monte Wooleyhan & Margaret Eileen Moore; thence leaving said Wooleyhan lands and proceeding by and with said Moore lands in a generally northerly direction a distance of 878 feet +/- to a point, said point being the southernmost property corner of lands N/F of Mid Sussex Rescue Squad; thence leaving said Moore lands and proceeding by and with said Rescue Squad lands in a northeasterly direction a distance of 282 feet +/- to a point, said point being on the easternmost property corner of lands N/F of Mid Sussex Rescue Squad, and the northernmost property corner of lands N/F of Carillon Woods LLC, said point further being on the southerly ROW of Indian Mission Road; thence proceeding by and with said ROW in an easterly direction a distance of 407 feet +/- to the point and place of beginning.

NOTE: The above description has been prepared using Sussex County Tax Map 234-23.00 and Sussex County property assessment records. The parcel contains 27.00 acres more or less.

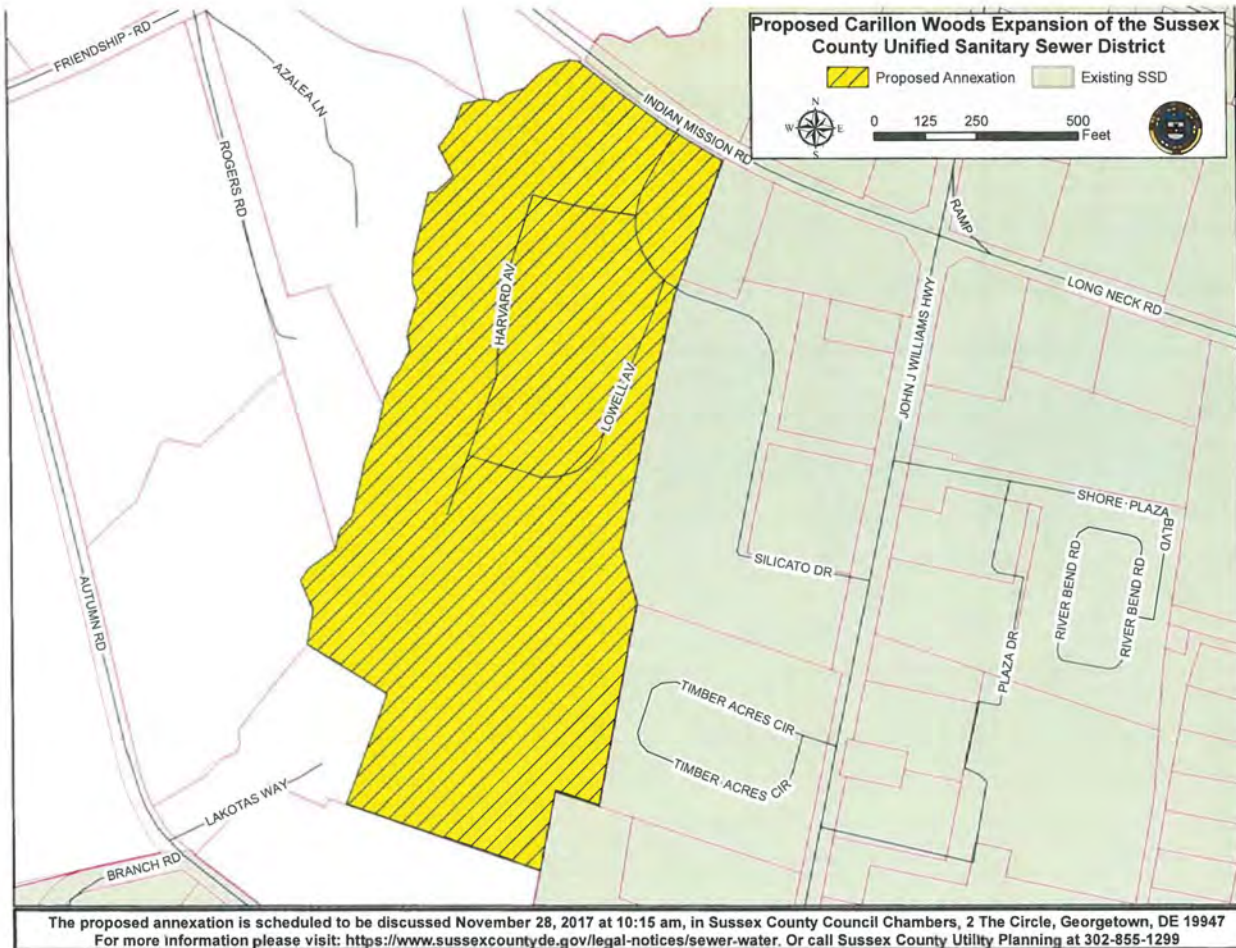
A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

**The public hearing will be held on this issue at 10:15 a.m. on November 28, 2017 in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware.** All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-1299).

Hans M. Medlarz, P.E.  
County Engineer







## RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) LONG NECK AREA, TO INCLUDE PARCEL 234-23.00-260.00 AND A PORTION OF PARCEL 269.18 LOCATED ON THE SOUTH SIDE OF INDIAN MISSION ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Indian Mission Road and John J. Williams Highway the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above situated on the south side of Indian Mission Road, as follows:

**Beginning** at a point, said point being on the southerly ROW of Indian Mission Road, and a point being on the northwesternmost property line of lands N/F of Janine R. Tucker, said point further being on the Sussex County Unified Sanitary Sewer District Boundary (SCUSSD) (Long Neck Area); thence proceeding by and with said SCUSSD boundary in a generally southerly direction a distance of 1,870 feet +/- to a point, said point being the northeasternmost property corner of lands N/F of Trantino & Sandra Norwood, said point also being on the westerly property line of lands N/F of Sabra Health Care Delaware LLC; thence leaving said SCUSSD boundary and proceeding by and with said Norwood lands the following directions northwesterly, northerly, northwesterly, northerly and northeasterly a total distance of 1190 feet +/- to a point, said point being the southernmost property corner of lands N/F of Roger B. Wooleyhan,



Jr.; thence leaving said Norwood property and proceeding by and with said Wooleyhan lands in a northerly direction a distance of 435 feet +/- to a point, said point being the southernmost property corner of lands N/F of Elizabeth Monte Wooleyhan & Margaret Eileen Moore; thence leaving said Wooleyhan lands and proceeding by and with said Moore lands in a generally northerly direction a distance of 878 feet +/- to a point, said point being the southernmost property corner of lands N/F of Mid Sussex Rescue Squad; thence leaving said Moore lands and proceeding by and with said Rescue Squad lands in a northeasterly direction a distance of 282 feet +/- to a point, said point being on the easternmost property corner of lands N/F of Mid Sussex Rescue Squad, and the northernmost property corner of lands N/F of Carillon Woods LLC, said point further being on the southerly ROW of Indian Mission Road; thence proceeding by and with said ROW in an easterly direction a distance of 407 feet +/- to the point and place of **Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 234-23.00 and Sussex County property assessment records.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.



SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
CARILLON WOODS EXPANSION  
AFFIDAVIT FOR PUBLIC HEARING

STATE OF DELAWARE )(

COUNTY OF SUSSEX )(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On November 9, 2017 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On November 9, 2017 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in the northerly ROW of Indian Mission Rd. in front of DEC pole 111810, at the entrance/exit of Nanticoke Crossing;
  2. On a post in the southerly ROW of Indian Mission Rd. in front of DEC pole 26294, 572' +/- northwest of John J. Williams Hwy;
  3. On a post in the southerly ROW of Indian Mission Rd., in front of DEC pole 123435, 713' +/- northwest of John J. Williams Highway;
  4. On a post in the easterly ROW of John J. Williams Highway in front of DEC pole 85400, 1087' +/- southwest of Long Neck Road;
  5. On a post in the southerly ROW of Bay Farm Rd. in front of 40 MPH sign, 83' +/- southeast of John J. Williams Highway.

  
PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 13<sup>th</sup> day of Nov. A.D., 2017

  
NOTARY PUBLIC

SHARON E. SMITH  
NOTARY PUBLIC  
STATE OF DELAWARE

My Commission Expires \_\_\_\_\_

My Commission Expires on July 14, 2018



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

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

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

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

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

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

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

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

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

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

**§115-4 Definitions and Word Usage.**

...



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

ACRE

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

ADJACENT

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

...

ALCOHOLIC BEVERAGE SALES

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

ANIMAL HOSPITAL

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

...

APPLICANT

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

...

AVERAGE DAILY TRAFFIC (ADT)

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

...

BED & BREAKFAST

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

...

BREWERY

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

BREW/ DISTILLING PUB



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

...

#### BULK REQUIREMENTS

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

#### CLINIC, MEDICAL

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

#### CLUB INDOOR, PRIVATE

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

...

#### COLLECTOR STREET

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

...

#### COMMUNICATION TOWER

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

#### COMMUNITY CENTER

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

#### CONDITIONS OF APPROVAL

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



...

[CONVALESCENT HOME

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

CONVENIENCE STORE

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

FUEL STATION

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

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

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

CHILD CARE (as per Delaware Code)

FAMILY CHILD CARE HOMES

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

LARGE FAMILY CHILD CARE HOMES

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

EARLY CARE AND EDUCATION AND SCHOOL-AGE CENTERS

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

RESIDENTIAL CHILD CARE FACILITIES AND DAY TREATMENT PROGRAMS services for children with behavioral dysfunctions; developmental, emotional, mental or physical impairments; and/or chemical dependencies.

CHILD PLACING AGENCIES

Adoption and foster care services.

...

DISTILLERY

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



178  
179 ...  
180  
181 DISTRICT, COMMERCIAL

182 Any district designated in these regulations as a business or commercial district or special  
183 commercial district [under Article II, IX, X or XI] of this chapter or containing the word  
184 "business" or "commercial" in its title.  
185

186 ...  
187

188 DISTRIBUTION CENTER

189 An establishment that distributes and stores goods, products, cargo, and materials, including  
190 transshipment by boat, rail, air, or motor vehicle.  
191

192 DWELLING, MULTI-FAMILY CONVERTED

193 A structure converted from a single family dwelling unit into a multifamily dwelling unit.  
194

195 ...  
196

197 EASEMENT

198 Authorization by a property owner for another to use the owner's property for a specified  
199 purpose.  
200

201 EDUCATIONAL INSTITUTION

202 Any school, educational institution or training institution, however designated, which offers a  
203 program of college, professional, preparatory, high school, junior high school, middle school,  
204 elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or  
205 any other program of trade, technical or artistic instruction.  
206

207 SERVICE OR FILLING STATION

208 Any building, structure or land used for the sale, at retail, of motor vehicle fuels, lubricants or  
209 accessories or for the servicing of automobiles or repairing of automobiles or repairing of minor  
210 parts and accessories, but not including major repair work such as motor replacement, body and  
211 fender repair or spray painting.  
212

213 FITNESS CENTER

214 A private health, athletic or recreational club facility that provides fitness services including, but  
215 not limited to gymnasiums (except public), weight training facilities, aerobic floors,  
216 tennis/racquetball courts, swimming pools, and similar athletic facilities, with full service  
217 amenities including but not limited to showers, lockers, baths and saunas.  
218

219 ...  
220

221 FUNERAL HOME



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

GARAGE, COMMERCIAL

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

...

GREEN

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

...

GREENHOUSE, COMMERCIAL

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

GREENWAY

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

GROUP HOME

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

...

HOSPITAL

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

...

MAJOR ARTERIAL ROADWAYS

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

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

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

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



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

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

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

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

...

#### MANUFACTURING

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

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

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

#### MARINE CONTRACTING

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

...

#### MATERIAL STORAGE YARD

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

...

#### NURSING & SIMILAR CARE FACILITIES

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

##### ASSISTED LIVING FACILITY

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



314 EXTENDED CARE FACILITY

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

318 GRADUATE CARE FACILITY

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

327 INDEPENDENT CARE FACILITY

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

332 INTERMEDIATE CARE FACILITY

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

338 LONG-TERM CARE FACILITY

339 An institution or a distinct part of an institution that is licensed or approved to provide  
340 health care under medical supervision for 24 or more consecutive hours.

342 OTHER

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

347 OFFICE

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

354 PARKING STRUCTURE

355 A parking structure is a building containing two or more stories of parking.

357 PATH



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

#### PHARMACY

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

...

#### PLACE OF WORSHIP

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

...

#### PUBLIC BUILDING

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

#### PUBLIC SAFETY FACILITY

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

#### PUBLIC UTILITY SERVICE

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

#### PUBLIC UTILITY SERVICE FACILITY

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

#### PUBLIC UTILITY SERVICE LINES

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

#### PUBLIC WATER AND SEWER SYSTEM

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

#### RECREATION FACILITY

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



404 RECREATION FACILITY, COMMERCIAL

405 A recreation facility operated as a business and open to the public for a fee.

407 RECREATION FACILITY, PERSONAL

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

411 RECREATION FACILITY, PRIVATE

412 A recreation facility operated by a nonprofit organization and open only to bona fide  
413 members and guests of such nonprofit organization.

415 RECREATION FACILITY, GOVERNMENT

416 A recreation facility owned, or operated by a government organization

417  
418 ...

419  
420 RESTAURANT

421 A restaurant includes the following:

422 a) Establishments where food and drink are prepared, served, and sold primarily for  
423 consumption within the principal building.

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

428  
429 RETAIL SALES

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

432 Characteristics of such uses include:

433 (a) Usually a business place engaged in activity to attract the general public to buy.

434 (b) Buys and receives as well as sells merchandise.

435 (c) May process or manufacture some of its products—a jeweler or a bakery—but processing  
436 is secondary to principal use.

437 (d) Generally sells to customers for personal or household use.

438  
439 ...

440  
441 SELF-STORAGE FACILITY

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

444  
445 SERVICES, COMMERCIAL

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



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

#### SERVICES, BUSINESS

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

#### SERVICES, PERSONAL

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

#### SERVICES, ENTERTAINMENT

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

...

#### SHOPPING CENTER

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

...

#### SURGICAL CENTER

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

...

#### TECHNOLOGY CENTER

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

...

#### USE

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

#### WAREHOUSE



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

...

**WHOLESALE ESTABLISHMENT**

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

**WHOLESALE TRADE ESTABLISHMENT**

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

...

**WINERY**

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

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

**§ 115-5. District established.**

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

**A. Residential districts:**

AR-1 Agricultural Residential District  
AR-2 Agricultural Residential District  
MR Medium-Density Residential District  
GR General Residential District  
HR-1 High-Density Residential District  
HR-2 High-Density Residential District  
UR Urban Residential District  
RPC Residential Planned Community District  
VRP Vacation-Retirement-Residential-Park District

**B. Business and commercial districts:**

UB Urban Business District  
B-1 Neighborhood Business District



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

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

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

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

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

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

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

578 **§115-75.1. Purpose.**



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

**§115-75.2. Permitted uses.**

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

AGRICULTURE-RELATED USES

Greenhouse, commercial

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

RESIDENTIAL USES

Bed and Breakfast (tourist homes)

Home Occupation

Hotel, motel or motor lodge

SALES & RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT

Convenience Store

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

Retail sales establishments 35,000 square feet or less

Pharmacy or related uses 35,000 square feet or less

Restaurant 7,500 square feet or less

Brew Pub 7,500 square feet or less

OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE AND SIMILAR

ENTERPRISES NOT PRIMARILY RELATED TO GOODS

Business service establishments

Bank

Professional Offices

Personal service establishments

Entertainment establishments 7,500 square feet or less

Social service establishments

MANUFACTURING, ASSEMBLING, PROCESSING

Winery, Brewery or Distillery under 7,500 square feet

EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC

SOCIAL, FRATERNAL

Recreational facility, commercial indoor and outdoor

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

Places of worship

INSTITUTIONAL, RESIDENCE CARE, CONFINEMENT

& MEDICAL FACILITIES



Family day-care center (1-6 children)

Large family child care homes (7-12 children)

Early care and education and school-age centers (13+ children)

Residential child care facilities and day treatment programs

Child placing agencies

Medical clinic

Assisted living facility

Extended care facility

Intermediate care facility

Long-term care facility

Surgical Center

Fitness/wellness center

Museums, non-profit art galleries

Community centers

TRANSPORTATION RELATED SALES & SERVICE

Motor vehicle washes

STORAGE AND PARKING

Self storage facility

PUBLIC, SEMI-PUBLIC UTILITIES, EMERGENCY

Government facilities and services

Parks

Public safety facilities including fire, police, rescue and national security

Utility service facilities

Communication Towers

Recreational facility, government

NOT GROUPED ELSEWHERE

Cemeteries

Funeral home

Animal hospital and veterinary clinics

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

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

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

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



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

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

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

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

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

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

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

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

691  
692 **§115-75.3 Permitted Accessory Uses.**

693  
694 Permitted accessory uses are as follows:

695 Residential within structure commercial or office uses

696 Home Occupation

697 Garage, public or commercial parking

698  
699 **§115-75.4 Special Use Exceptions.**

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

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

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



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

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

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

**§ 115-75.5 Permitted signs.**

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

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

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

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

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

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

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

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

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

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

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

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



**§ 115-75.7 Reference to additional regulations.**

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

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

*Article XX, Tables*

*Article XXI, Signs*

*Article XXII, Off-Street Parking*

*Article XXIII, Off-Street Loading*

*Article XXV, Supplementary Regulations*

*Article XXVII, Board of Adjustment*

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

**§ 115-75.8 Purpose.**

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

**§ 115-75.9 Permitted Uses.**

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

**RESIDENTIAL USES**

*Hotel, motel or Motor Lodge*

**OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS**

*Business service establishment*

*Banks*

*Professional offices*

*Personal service establishments*

*Social service establishments*

**MANUFACTURING, ASSEMBLING, PROCESSING**

*Manufacturing (no outdoor sales or storage)*

**EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC SOCIAL, FRATERNAL**

*Places of worship*

*Biotech campus*

*Biotech industry*



789 INSTITUTIONAL, RESIDENCE, CARE,

790 CONFINEMENT AND MEDICAL FACILITIES

791 Early care and education and school-age centers (13 or more) children)

792 Child placing agencies

793 Medical clinic

794 Fitness/wellness center

795  
796 STORAGE AND PARKING

797 Distribution center

798  
799 PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY

800 Government facilities and services

801 Parks

802 Public safety facilities including ambulance, fire, police, rescue and national security

803 Recreational facility, government

804 Utility service facilities

805 Communication towers

806  
807 NOT GROUPED ELSEWHERE

808 Technology centers

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

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

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

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

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

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

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



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

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

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

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

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

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

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

Permitted accessory uses are as follows:

Banks

Convenience store

Retail sales establishments 7,500 square feet or less

Pharmacy or related uses, 12,000 square feet or less

Restaurants 7,500 square feet or less

Brew pub, 7,500 square feet or less

Entertainment establishment

Garage, public or commercial parking

Hotel, motel or motor lodge

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

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

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

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

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



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

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

**§ 115-75.12 Permitted signs.**

See Article XXI, §§ 115-159.4 for signs permitted in the B-3 District and other regulations relating to signs.

**§ 115-75.13 Height, area and bulk requirements.**

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

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

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

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

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

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

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

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

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

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



908  
909 **§ 115-75.13 Reference to additional regulations.**  
910

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

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

914 Article XX, Tables

915 Article XXI, Signs

916 Article XXII, Off-Street Parking

917 Article XXIII, Off-Street Loading

918 Article XXV, Supplementary Regulations

919 Article XXVII, Board of Adjustment  
920

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

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

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

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

928 Article XXI, Signs

929 Article XXII, Off-Street Parking

930 Article XXIII, Off-Street Loading

931 Article XXV, Supplementary Regulations

932 Article XXVII, Board of Adjustment  
933

934 B. Closed district. As of \_\_\_\_\_, the CR-1 Commercial Residential District shall  
935 be considered a closed district and shall not be applied to any additional lands in Sussex County.  
936 The district and its various provisions and regulations shall continue to exist as they apply to a  
937 CR-1 District established under the procedures of this chapter.  
938

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

942 **§115-83.11 Purpose.**

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

947 **§115-83.12 Permitted uses:**

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

949 AGRICULTURAL RELATED USES



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



Intermediate care facility  
Long term care facility  
Fitness/wellness center  
Museums, non-profit art galleries  
Community centers

STORAGE AND PARKING  
Self-storage facility  
Warehouse

PUBLIC, SEMI-PUBLIC, UTILITIES, EMERGENCY  
Government facilities and services  
Parks  
Public safety facilities including ambulance, fire, police, rescue and national security  
Utility service facilities  
Communication towers  
Recreational facilities, government

NOT GROUPED ELSEWHERE  
Funeral home  
Animal hospital and veterinary clinics

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

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

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

Permitted accessory uses are as follows:

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

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

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

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

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

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



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

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

**§ 115-83.15 Permitted signs.**

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

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

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

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

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

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

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

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

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

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

All Permitted                      75,000

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



1075

Use                                      Feet

All Permitted                                      42

1076

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

1078 The regulations contained in this article are supplemented or modified by regulations contained  
1079 in other articles of this chapter, especially the following:

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

1081 Article XX, Tables

1082 Article XXI, Signs

1083 Article XXII, Off-Street Parking

1084 Article XXIII, Off-Street Loading

1085 Article XXV, Supplementary Regulations

1086 Article XXVII, Board of Adjustment

1087

1088 **Section 8.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new  
1089 Article XIC “C-3 Heavy Commercial” immediately after Article XIA “CR-1 Commercial  
1090 Residential District” and new Article XIB “C-2 Medium Commercial” as follows:

1091 **§115-83.18 Purpose.**

1092 This district is generally intended for larger scale auto-oriented retail and service businesses  
1093 along major arterial roads that serve local and regional residents as well as the travelling  
1094 public. In addition to most commercial uses found in this zone, automobile, truck, recreational  
1095 vehicle and boat sales, rental and major repair facilities may also be located in this district.

1096 **§115-83.19 Permitted uses.**

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

1098 AGRICULTURE-RELATED USES

1099 Greenhouse, commercial

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

1101

1102 RESIDENTIAL USES

1103 Hotel, motel or motor lodge

1104

1105 SALES & RENTAL OF GOODS,

1106 MERCHANDISE AND EQUIPMENT

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

1108 Retail sales establishments

1109 Pharmacy or related use

1110 Restaurants

1111 Brew pubs

1112 Wholesale trade establishment

1113

1114 OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE

1115 AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS



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



Public safety facilities including ambulance, fire, police rescue and national security

Utility service facilities

Communication towers

Recreational facilities government

NOT GROUPED ELSEWHERE

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

Animal hospital or veterinary clinic

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

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

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

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

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

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

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

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

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

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

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



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

**§115-83.20 Permitted Accessory Uses.**

*Permitted accessory uses are as follows:*

*Residential within structure commercial or office uses  
Garage, public or commercial parking*

**§115-83.21 Special Use Exceptions.**

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

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

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

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

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

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

**§ 115-83.22 Permitted signs.**

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

**§ 115-83.23 Height, area and bulk requirements.**

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

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

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



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

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

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

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

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

Permitted Use                      150,000

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

<u>Use</u>	<u>Feet</u>
------------	-------------

Permitted Use                      42

**§ 115-83.24 Reference to additional regulations.**

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

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

Article XX, Tables

Article XXI, Signs

Article XXII, Off-Street Parking

Article XXIII, Off-Street Loading

Article XXV, Supplementary Regulations

Article XXVII, Board of Adjustment

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

**§ 115-83.25 Purpose.**

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



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

1277  
1278 **§ 115-83.26 Minimum district requirements.**

1279  
1280 A. The land area shall have access to an existing or planned arterial or collector road;

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

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

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

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

1288 F. Site plan review requirements.

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

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

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

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

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

1302 [d] Plan showing proposed generalized parking arrangements.

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

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

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

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

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

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

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



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

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

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

**§115-83.27 Permitted uses.**

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

AGRICULTURE RELATED USES

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

RESIDENTIAL USES

Dwelling, duplex

Dwelling, multi-family

Dwelling, single family

Dwelling, townhouses

Home occupation

Hotel, motel or motor lodge

SALES & RENTAL OF GOODS,

MERCHANDISE AND EQUIPMENT

Convenience store

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

Retail sales establishments

Pharmacy or related use

Restaurants

Brew Pub

Wholesale trade establishment

OFFICE, CLERICAL, RESEARCH, PERSONAL SERVICE

AND SIMILAR ENTERPRISES NOT PRIMARILY RELATED TO GOODS

Business service establishments

Banks

Professional offices

Personal service establishments

Entertainment establishments



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



Recreational facility government

NOT GROUPED ELSEWHERE

Technology centers

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

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

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

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

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

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

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

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

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

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

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

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

**§115-83.28 Permitted Accessory Uses.**



Permitted accessory uses are as follows:  
Greenhouses, commercial  
Residential within structure commercial or office uses

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

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

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

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

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

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

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

**§ 115-83.30 Permitted signs.**

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

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

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

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

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

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

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



1495

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

1496

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

1498

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

Permitted Uses                      --

1499

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

1501

<u>Use</u>	<u>Feet</u>
------------	-------------

Permitted Uses                      42

1502

1503 **§ 115-83.32 Reference to additional regulations.**

1504 The regulations contained in this article are supplemented or modified by regulations contained

1505 in other articles of this chapter, especially the following:

1506 Article I, § 115-4, Definitions and word usage

1507 Article XX, Tables

1508 Article XXI, Signs

1509 Article XXII, Off-Street Parking

1510 Article XXIII, Off-Street Loading

1511 Article XXV, Supplementary Regulations

1512 Article XXVII, Board of Adjustment

1513

1514 **Section 10.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new

1515 Article XIE “C-5 Service/Limited Manufacturing” immediately after Article XIA “CR-1

1516 Commercial Residential District” and new Article XIB “C-2 Medium Commercial”, Article XIC

1517 “C-3 Heavy Commercial” and Article XID “C-4Planned Commercial” as follows:

1518 **§ 115-83.33 Purpose.**

1519 The Service/Limited Manufacturing District is designed to maintain and facilitate the growth and

1520 expansion of small scale light industrial, wholesale distribution and personal service. Use

1521 permitted in this district must have a retail component.

1522

1523 **§ 115-83.34 Permitted uses.**

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



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



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

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

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

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

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

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

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

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

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

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

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

#### **115-83.35 Permitted Accessory Uses.**

Permitted accessory uses are as follows:

Garage, public or commercial parking

#### **§115-83.36 Special Use Exceptions.**

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



Exceptions to parking and loading requirements, as follows:

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

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

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

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

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

**§ 115-83.37 Permitted signs.**

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

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

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

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

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

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

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

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

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



1650

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

1651

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

1653

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

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

1655 The regulations contained in this article are supplemented or modified by regulations contained

1656 in other articles of this chapter, especially the following:

1657 Article I, § 115-4, Definitions and word usage

1658 Article XX, Tables

1659 Article XXI, Signs

1660 Article XXII, Off-Street Parking

1661 Article XXIII, Off-Street Loading

1662 Article XXV, Supplementary Regulations

1663 Article XXVII, Board of Adjustment

1664

1665 **Section 11.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new

1666 Article XIF “I-1 Institutional” immediately after Article XIA “CR-1 Commercial Residential

1667 District” and new Article XIB “C-2 Medium Commercial”, Article XIC “C-3 Heavy

1668 Commercial”, Article XID “C-4 Planned Commercial” and “C-5 Service/Limited

1669 Manufacturing” as follows:

1670 **§ 115-83.40 Purpose.**

1671 The purpose of this district is to recognize the public, quasi-public, and institutional nature of

1672 particular parcels of land and provide standards and guidelines for their continued use and

1673 future development; and to ensure that the public, quasi-public, and institutional structures and

1674 developments in the district will be compatible with surrounding districts and uses.

1675

1676 **§ 115-83.41. Permitted uses.**

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

1678 Bio tech campus

1679 Bio tech industry

1680 Social service establishments

1681 Education institutions, public and private

1682 Places of worship

1683 Early care and education and school-age centers (13+ children)

1684 Residential child care facilities and day treatment programs

1685 Child placing agencies

1686 Hospitals



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

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

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

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

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

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

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



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

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

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

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

1739  
1740  
1741 B. Where, in the judgment of the Commission, a use is not specifically referenced but is similar  
1742 to those listed as permitted; it may be permitted by approval of the Commission.

1743  
1744 **115-83.42 Permitted Accessory Uses.**

1745  
1746 Permitted accessory uses are as follows:

1747 Garage, public or commercial parking  
1748

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

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

1752  
1753 Exceptions to parking and loading requirements, as follows:

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

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

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

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

1767  
1768 **§ 115-83.44 Permitted signs.**

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

1771  
1772 **§ 115-83.45 Height, area and bulk requirements.**

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



1774

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

1775

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

1778

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

1782

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

1786

1787

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

1788

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

1790

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

1791

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

1793

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

1794

1795 § 115-83.46 Reference to additional regulations.

1796

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

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

1800 Article XX, Tables

1801 Article XXI, Signs

1802 Article XXII, Off-Street Parking

1803 Article XXIII, Off-Street Loading

1804 Article XXV, Supplementary Regulations

1805 Article XXVII, Board of Adjustment

1806



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

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

1812 . . .

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

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

1821

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

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

1829

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

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

1840 . . .

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

1845 . . . .



1846

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

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

1851 A. On premises electronic message centers:

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

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

1867 . . .

1868 B. Off-premises electronic message centers:

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

1875 . . . .

1876

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

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

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



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

1886 . . . .

1887

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

1891 **§115-180 Lot area.**

1892 . . .

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

1896 . . . .

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

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

1901 . . .

1902 E. Minimum buffer and setback requirements.

1903 . . .

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

1906	District	Setback	Buffer
1907		(feet)	(feet)
1908	AR-1 Agricultural Residential	40	20
1909	AR-2 Agricultural Residential	40	20
1910	MR Medium Density Residential	40	20
1911	GR General Residential	40	20
1912	HR-1 High-Density Residential	60	20
1913	HR-2 High Density Residential	60	20
1914	B-1 Neighborhood Business	60	20
1915	<u>B-2 Business Community</u>	<u>60</u>	<u>20</u>
1916	<u>B-3 Business Research</u>	<u>60</u>	<u>20</u>
1917	C-1 General Commercial	60	20
1918	CR-1 Commercial Residential	60	20
1919	<u>C-2 Medium Commercial</u>	<u>60</u>	<u>20</u>
1920	<u>C-3 Heavy Commercial</u>	<u>60</u>	<u>20</u>
1921	<u>C-4 Planned Commercial</u>	<u>60</u>	<u>20</u>



1922	<u>C-5 Service/Limited Manufacturing</u>	<u>60</u>	<u>20</u>
1923	<u>I-1 Institutional</u>	<u>60</u>	<u>20</u>
1924	M Marine	60	20
1925	LI-1 Limited Industrial	60	20
1926	LI-2 Light Industrial	60	20
1927	HI-1 Heavy Industrial	60	20
1928			

1929 . . . .

1930

1931 **Section 19.** The Code of Sussex County, Chapter 115, Article XXVIII, §115-218 “Procedure  
 1932 for RPC District and conditional use site plan approval” is hereby amended by inserting “C-4  
 1933 Planned Commercial District” into the Title and inserting the italicized and underlined language  
 1934 therein as follows:

1935 **§115-218 “Procedure for RPC District, C-4 Planned Commercial District and conditional**  
 1936 **use site plan approval.**

1937 Where the provisions of this chapter require the submittal of site plans for RPC Districts, C-4  
 1938 Planned Commercial Districts and conditional uses, the following schedule of procedure shall  
 1939 apply:

1940 . . .

1941 F. A preliminary site plan for an RPC or a Planned Commercial District shall be valid for  
 1942 the period of time set forth in §99-9B of Chapter 99, Subdivision of Land. A final site plan for  
 1943 an RPC or a Planned Commercial District shall be valid for the period of time set forth in §99-  
 1944 40A of Chapter 99, Subdivision of Land. An extension of these time periods may be sought in  
 1945 accordance with §99-40F.

1946

1947 **Section 20.** The Code of Sussex County, Chapter 115, is hereby amended by amending the  
 1948 heading of “115 Attachment 3, Sussex County Table III” by inserting the italicized and  
 1949 underlined language therein as follows:

1950

1951 **115 Attachment 3**

1952 **Sussex County**

1953 **Table III**

1954 **Table of Height, Area and Bulk Requirements for Multifamily Structures**  
 1955 **When Permitted in B-1, B-2, [and] CR-1, C-2, C-3 and C-5 Districts**  
 1956  
 1957

1958 **Section 21.** The Code of Sussex County, Chapter 115, is hereby amended by inserting a new  
 1959 “115 Attachment 4, Sussex County Table IV” as said Table is attached hereto as Exhibit A.



1960 *See Exhibit A, attached hereto and incorporated herein.*

1961

1962 **Section 22.** Effective Date.

1963           This Ordinance shall take effect \_\_\_\_\_ days from the date of adoption by County  
1964           Council.

1965

DRAFT



# ZONING

## 115 Attachment 4

### Sussex County

**TABLE IV**

#### Permitted Uses Commercial Sussex County

Blank P SUE A D	=Not permitted =Permitted use =Special use Exception, see Sec. ** =Permitted Accessory Use, see Sec. ** = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
<b>Agriculture-Related Uses</b>								
Agriculture-Related Business							P <sup>2</sup>	
Agricultural Uses (less than 5 acres) Farm, Truck Garden, Orchard or Nursery Uses							P <sup>2</sup>	
Aquaculture							P <sup>2</sup>	
Greenhouse, commercial	D	P			P	A	P	
Wholesale, retail, nurseries for sale of products produced on site	D	P		P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Residential Uses</b>								
Residential within structure commercial or office uses		A		A	A <sup>3</sup>	A <sup>4,5</sup>		
Bed & Breakfast (Tourist Homes)	D	P		P				
Dwelling, Duplex	D					P <sup>4,5</sup>		
Dwelling, Manufactured Home	D							
Dwelling, Multi-family	D					P <sup>4,5</sup>		
Dwelling, Single Family Detached, including Modular	D					P <sup>4,5</sup>		
Dwelling, Townhouse	D					P <sup>4,5</sup>		
Home Occupation	D	A				P		
Hotel, motel or motor lodge	D	P	P	P	P	P		
<b>Sales &amp; Rental of Goods, Merchandise, and Equipment</b>								
Convenience store	D	P	A	P <sup>1</sup>	P	P		
Convenience store , Fuel Station (1 to 6 fuel dispensers)(no restriction on number of nozzles)		P		P <sup>1</sup>	P	P		
Convenience store , Fuel Station (7 or more fuel dispensers) (no restriction on number of nozzles)					P	P		
Retail sales establishments 3,500 SF or less	D	P	A	P <sup>1</sup>	P	P	P	
Retail sales establishments 3,501 SF to 7,500 SF	D	P	A	P <sup>1</sup>	P	P	P	
Retail sales establishments 7,501 SF to 35,000 SF	D	P		P <sup>1</sup>	P	P		
Retail sales establishments 35,001 SF to 75,000 SF	D			P <sup>1</sup>	P	P		



Blank P SUE A D	=Not permitted =Permitted use =Special use Exception, see Sec. ** =Permitted Accessory Use, see Sec. ** = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Retail sales establishments 75,001 SF or more	D				P	P		
Pharmacy or related uses, 12,000 SF or less	D	P	A	P <sup>1</sup>	P <sup>1</sup>	P		
Pharmacy or related uses, 12,001 SF to 35,000 SF	D	P		P <sup>1</sup>	P <sup>1</sup>	P		
Restaurant 3,500 SF or less		P	A	P <sup>1</sup>	P	P	P <sup>2</sup>	
Restaurant 3501 SF to 7,500 SF	D	P	A	P <sup>1</sup>	P	P	P <sup>2</sup>	
Restaurant 7,501 SF or more	D			P <sup>1</sup>	P	P		
Brew Pub 7,500 SF or less		P	A	P <sup>1</sup>	P	P		
Brew Pub 7,501 SF or more				P <sup>1</sup>	P	P		
Wholesale trade establishment	D			P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods</b>								
Business service establishments	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Banks		P	P	P <sup>1</sup>	P	P		
Professional Offices	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Personal service establishments	D	P	P	P <sup>1</sup>	P	P	P <sup>2</sup>	
Entertainment establishments 7,500 SF or less	D	P	A	P <sup>1</sup>	P	P		
Entertainment establishments more than 7,501 SF	D		A	P <sup>1</sup>	P	P		
Social service establishments	D	P	P	P <sup>1</sup>	P	P		P
<b>Manufacturing, Assembling, Processing</b>								
Winery, Brewery or Distillery under 7500 SF	D	P		P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>2</sup>	
Winery, Brewery or Distillery over 7501 SF							P <sup>2</sup>	
Manufacturing	D		P <sup>1</sup>				P <sup>2</sup>	
Material Storage Yard w/ on-site mulching, pulping or manufacturing of material	D						P <sup>2</sup>	
<b>Educational, Cultural, Religious, Philanthropic, Social, Fraternal</b>								
Bio Tech Campus	D		P					P
Biotech Industry	D		P <sup>1</sup>					P <sup>1</sup>
Recreational Facility, Private	D					P		
Recreational Facility, Commercial (Indoor Only)	D	P		P	P	P		
Recreational Facility, Commercial (Indoor & Outdoor)	D	P			P	P		
Club Indoor, private such as clubs, lodges, and other annual membership clubs	D	P		P	P	P		
Aquariums, commercial						P		
Educational institutions, public and private	D							P



<b>Blank</b>	<b>=Not permitted</b>							
<b>P</b>	<b>=Permitted use</b>							
<b>SUE</b>	<b>=Special use Exception, see Sec. **</b>	<b>Zone B-2</b>	<b>Zone B-3</b>	<b>Zone C-2</b>	<b>Zone C-3</b>	<b>Zone C-4</b>	<b>Zone C-5</b>	<b>Zone I-1</b>
<b>A</b>	<b>=Permitted Accessory Use, see Sec. **</b>							
<b>D</b>	<b>= Definition, see Sec. **</b>							
Places of worship	D	P	P	P	P	P	P	P
<b>Institutional, Residence, Care, Confinement &amp; Medical Facilities</b>								
Family Child Day care center (1-6 children)	D	P		P	P	P		
Large Family Child Care Homes (7-12 children)	D	P		P	P	P		
Early Care and Education and school-Age Centers (13 or more children)	D	P	P	P	P	P		P
Residential Child Care Facilities and Day Treatment Programs	D	P		P	P	P		P
Child Placing Agencies	D	P	P	P	P	P		P
Hospital	D							P
Medical clinic	D	P	P	P	P	P		P
Independent Care Facility	D			P	P	P		P
Assisted Living Facility	D	P		P	P	P		P
Extended Care Facility	D	P		P	P	P		P
Intermediate Care Facility	D	P		P	P	P		P
Long-term Care Facility	D	P		P	P	P		P
Graduate Care Facility						P		P
Surgical center	D	P			P	P		P
Fitness / wellness center		P	P	P <sup>1</sup>	P	P		P
Museums, Non-profit art galleries	D	P		P <sup>1</sup>	P	P		P
Community Centers	D	P		P <sup>1</sup>	P	P		P
<b>Transportation-Related Sales &amp; Service</b>								
Motor & non-motor vehicle sales, rental, repair, service and storage					P	P	P <sup>2</sup>	
Motor-vehicle washes		P			P	P		
Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration								
<b>Storage &amp; Parking</b>								
Distribution center	D		P		P		P <sup>2</sup>	
Garage, public or commercial parking		A	A	A	A	P	A	A
Self-storage facility	D	P		P <sup>1</sup>	P	P	P <sup>2</sup>	
Warehouse	D			P <sup>1</sup>	P	P	P <sup>2</sup>	
<b>Public, Semi-Public, Utilities, Emergency</b>								
Government facilities and services, local	D	P	P	P <sup>1</sup>	P	P		P
Government facilities and services, non-local	D	P	P	P <sup>1</sup>	P	P		P



Blank P SUE A D	=Not permitted =Permitted use =Special use Exception, see Sec. ** =Permitted Accessory Use, see Sec. ** = Definition, see Sec. **	Zone B-2	Zone B-3	Zone C-2	Zone C-3	Zone C-4	Zone C-5	Zone I-1
Parks		P	P	P <sup>1</sup>	P	P		P
Public safety facilities including, ambulance, fire, police, rescue, and national security	D	P	P	P <sup>1</sup>	P	P	P	P
Utility service facilities	D	P	P	P <sup>1</sup>	P	P	P	P
Communication Towers		P	P	P	P	P	P	P <sup>1</sup>
Recreational Facility, Government	D	P	P	P <sup>1</sup>	P	P		P
<b>Not Grouped Elsewhere</b>								
Off-Premise Signs					SUE	SUE	SUE	
Cemeteries		P						P
Funeral home		P		P <sup>1</sup>				P
Commercial kennels, provided that no open pens, runs, kennels or cages are located within 200 feet of land that is used or zoned residential and 50 feet from any property line)					P <sup>1</sup>		P <sup>1</sup>	
Animal Hospital and Veterinary clinics		P		P <sup>1</sup>	P			P <sup>1</sup>
Technology Center			P			P	P	P
Temporary Removable Vendor Stands		P	P		P	P	P	P

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

P Permitted Use

<sup>1</sup> No outdoor sales and or storage permitted

<sup>2</sup> Uses permitted only with an on-site retail component

<sup>3</sup> Mixed use building must consist of at least 25% commercial space

<sup>4</sup> Residential uses within the C-4 district shall not exceed 12 units per acre or exceed floor area ratio maximums

<sup>5</sup> Residential uses within the C-4 district when developed must be a minimum of 25% of the total square footage and not exceeding 50% of the total square footage of the parcel or site

A Use permitted as the accessory use of the parcel

SUE – Special Use Exception - Only permitted by Board of Adjustment



## 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
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## Sussex County

DELAWARE

[sussexcountyde.gov](http://sussexcountyde.gov)

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOSEPH WRIGHT, P.E.  
ASSISTANT COUNTY ENGINEER

### Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable George B. 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

RE: ***General Labor & Equipment Contract Change Order No.8***

DATE: November 28, 2017

During the Fiscal Year 2017 Budget Process, the Engineering Department introduced the concept of a time and material contract to reduce the capital project backlog. On June 21, 2016, Council awarded the General Labor & Equipment Contract - Project #17-01 to George & Lynch, Inc. Previously the Engineering Department had requested Change Order(s) No.1 thru No.5 for a total \$1,445,358.00 which were approved by Council adjusting the Contract for FY 2017 to \$3,543,254.80.

On June 13, 2017, Council authorized the one year extension option to the General Labor & Equipment Contract, allowing for continued project completion and emergency repair services to existing facilities through July 1, 2018. On August 29, 2017, Council awarded change order no. 6 in the amount of \$1,669,669.00 for the construction of all phases of the interconnection with the Lewes Board of Public Works, including the estimated reimbursement amount by the Board of \$804,846.00. On September 19, 2017, Council awarded change order no. 7 in the amount of \$771,000.00 for pavement rehabilitation, including related storm water improvements and electrical upgrades at the Coastal Airport, an Artesian Wastewater Management system interconnection at their Stonewater Creek wastewater treatment plant and miscellaneous patching and pavement repairs for legacy sewer installations.

The FY 2018 Budget contained upgrades to Pump Station No. 4 in Dewey Beach estimated at \$500,000. However, an emergency repair at Pump Station No. 54 in the Bethany Beach area is ranking higher in priority. Earlier this month one of the discharge lines at said station experienced a valve failure allowing only one pump to operate. We are requesting a project scope change to accommodate the urgent repair and upgrade placing all valves in a new valve vault estimated at \$325,000.





The General Labor & Equipment Contract advertisement outlined Wolfe Neck Wastewater Treatment Plant - site work and offsite utility work. The intent for the offsite utility work was to construct interconnections with other wastewater service providers and reduce erroneous inflow into the system. The Environmental Services team has observed more frequent flooding at said station, placing the wet well and valve vault completely under water. We are proposing to raise both structures and the electrical control cabinet above the flooding level, reducing the inflow to the treatment plant. This work is estimated at \$175,000.

In summary, the Engineering Department is requesting a scope modification change order at no additional expense replacing the budget upgrades to Pump Station No. 4 with the emergency work at Pump Station No. 54 and the elevation modifications at Pump Station No. 224.



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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER  
JOSEPH WRIGHT, P.E.  
ASSISTANT COUNTY ENGINEER

### Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable George B. 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

RE: **WOLFE NECK RWF**  
***Administration Building Remediation and Repairs***  
***Balancing Change Order and Substantial Completion***

DATE: November 28, 2017

The Wolfe Neck and Inland Bays Regional Wastewater Facilities were constructed in the mid 1990's utilizing the same architectural set of construction documents for the administration buildings. Both buildings have been plagued with significant leakage caused by incorrect flashing installation over and around the windows for years. The continuous water damage caused an extensive mold problem at the Wolfe Neck building triggering remedial emergency action by Serv-Pro. The building was vacated after more mold was discovered throughout. Since then the Environmental Services team has been operating out of an on-site pole barn.

The necessary repairs were difficult to procure without a detailed architectural plan but the Engineering Department, in cooperation with Environmental Services secured three (3) quotations based on a written scope and subsequent site visits. The lowest, responsive proposal for the base scope of work was submitted by Willow Construction, LLC of Easton, Maryland in the amount of \$48,900.00.

During the solicitation process, it became apparent that the concrete block building should also be pressure washed, completely re-caulked and sealed to further improve the weather tightness. Willow Construction, LLC offered an alternate to provide that service on a time and material basis with an amount not to exceed \$7,000.00. On May 16, 2017 County Council awarded the project to Willow Construction, LLC for the base scope and the unsolicited time and material building sealing alternate in the total amount of \$55,900.00.





Construction began on July 5, 2017 and was considered substantially complete on November 11, 2017. In the course of the construction the Environmental Services Team requested a small partition wall allowing for better space utilization. This change in addition to roof repairs required to stop newly discovered leakage and adjustment of unit quantities resulted in a close out change order in the amount of \$4,992.15.

The Engineering Department requests Council's concurrence in granting substantial completion for the project as of November 11, 2017 and approval of close out change order no.1.





**SUSSEX COUNTY  
CHANGE ORDER REQUEST**

**A. ADMINISTRATIVE:**

1. Project Name: **Wolfe Neck Admin Building Remediation Repairs**
2. Sussex County Project No. 18-11
3. Change Order No. 1
4. Date Change Order Initiated - 11/21/17
5.
  - a. Original Contract Sum \$55,900.00
  - b. Net Change by Previous Change Orders -0-
  - c. Contract Sum Prior to Change Order \$55,900.00
  - d. Requested Change \$4,992.15
  - e. Net Change (No. of days) -0-
  - f. New Contract Amount \$60,892.15
6. Contact Person: Hans Medlarz, P.E.  
Telephone No. (302) 855-7718

**B. REASON FOR CHANGE ORDER (CHECK ONE)**

- ☐ 1. Differing Site Conditions
- ☐ 2. Errors and Omissions in Construction Drawings and Specifications
- ☐ 3. Changes Instituted by Regulatory Requirements
- ☐ 4. Design Change
- ☐ 5. Overrun/Underrun in Quantity
- ☐ 6. Factors Affecting Time of Completion



X 7. Other (explain below):

**C. BRIEF DESCRIPTION OF CHANGE ORDER:**

New partition wall, door and roof repairs.

**D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?**

Yes X No \_\_\_\_\_

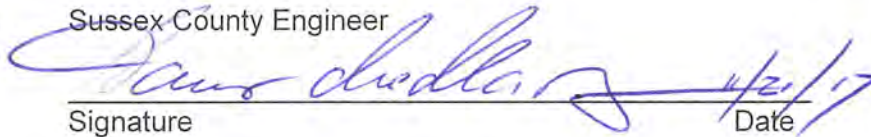
**E. APPROVALS**

1. Willow Construction, Project General Contractor

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Representative's Name in Block Letters

2. Sussex County Engineer

  
Signature Date 4/20/17

3. Sussex County Council President

\_\_\_\_\_  
Signature Date



## ENGINEERING DEPARTMENT

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## Sussex County


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HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

JOSEPH WRIGHT, P.E.  
ASSISTANT COUNTY ENGINEER

### Memorandum

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

FROM: John J. Ashman   
Director of Utility Planning

RE: ***USE OF EXISTING INFRASTRUCTURE AGREEMENT  
SALT AIRE***

DATE: November 20, 2017

On July 19, 2016, the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The planning effort identified infrastructure needs and matched them to transmission and treatment capacity upgrades respectively. The presentation generally addressed planning and construction of regional transmission system(s) linking the sewer planning areas as well as existing/future development(s) to available treatment capacity. This arrangement collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

This same type of planning holds true in the South Coastal Planning Area and all Planning Areas within the county. Therefore, The Engineering Department is now presenting a request for the approval of an agreement for the Use of Existing Infrastructure in the South Coastal Planning Area with **Land & Marketing Corporation**. This arrangement does not modify the underlying land use decision in any form. It allows the wastewater originating from the approved approved project as well as off-site equivalent dwelling units to be conveyed through the existing transmission system constructed by the County.

Under this arrangement all of the **Salt Aire** development will be connected to existing infrastructure and in return **Land & Marketing Corporation** will contribute **\$11,861.20** for the perpetual use of these facilities.





## **USE OF EXISTING INFRASTRUCTURE AGREEMENT**

### **SALT AIRE**

THIS AGREEMENT ("Agreement"), made this 24<sup>th</sup> day of October 2017, by and between:

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, hereinafter called the "County," and;

**LAND & MARKETING CORPORATION**, a developer of a project known as Salt Aire, hereinafter called the "Developer";

### **WITNESSETH:**

**WHEREAS**, the Developer is developing a tract of land identified as Tax Map parcel 134-9.00-80.01, 80.06 & 88.00 to be known as Salt Aire and;

**WHEREAS**, the project is located in the Sussex County Unified Sanitary Sewer District (Cedar Neck Area) and;

**WHEREAS**, the County has determined by study known as South Coastal Area Planning Study, that the project can be served by the regional infrastructure and;

**WHEREAS**, the project will utilize capacity in existing wastewater infrastructure previously funded by the County.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) At its sole cost and expense, the Developer agrees to design, bid and construct the connection to the existing Cedar Neck wastewater infrastructure.
- (2) In exchange for permission to connect up to 19 equivalent dwelling units to the County's existing infrastructure the Developer agrees to a contribution of \$11,861.20 for the perpetual use of said facilities. The contribution will be placed in the sewer district account and expended at such time when the existing transmission infrastructure utilized by Developer requires upgrades or replacement.
- (3) Developer will be responsible for full System Connection Charge for all lots, due at such time the developer applies for a building permit.
- (4) Payment of the contribution is due at time of the bonding for the first phase of construction.



- (5) Prior to the commencement of any construction for the Project, the Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of Section 110-84 of the Sussex County Code.
- (6) Upon completion of the Project, the Developer shall provide notice of completion in writing to the County, who shall promptly schedule a final inspection. Any defects or issues shall be identified in writing to the Developer, who shall have thirty (30) days to complete said items, unless the County grants an extension. When all items have been addressed to the County's satisfaction and other requirements under this Agreement have been met, the County shall issue final written acceptance and release all associated construction bond(s).
- (7) The Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by the Developer or to any third party who purchases, leases or otherwise controls any portion of the Developer property without the consent of the County. The Developer shall provide County at least ten days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of the County.
- (8) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all of the parties hereto.
- (9) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (10) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by the County, nor in any way relieve the Developer of its responsibility for the adequacy of its work.
- (11) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (12) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.



- (13) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is 27 Atlantic Avenue, Ocean View, Delaware 19970.



IN WITNESS WHEREOF, the respective parties hereto have affixed their hands  
and seals the day and year aforesaid.

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)

\_\_\_\_\_ (DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**LAND & MARKETING CORPORATION**

By: \_\_\_\_\_ (Seal)  
Robert J. Harris

10/24/17 (DATE)

WITNESS:

Robin A. Griffith



## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
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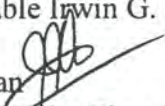


## Sussex County

DELAWARE  
sussexcountype.gov  
HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER  
JOSEPH WRIGHT, P.E.  
ASSISTANT COUNTY ENGINEER

### Memorandum

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

FROM: John Ashman   
Director of Utility Planning

RE: *Use of Existing Infrastructure Agreement  
Middle Creek Preserve, LLC*

DATE: November 20, 2017

On July 19, 2016, the Engineering Department gave a presentation on Sussex County's proactive wastewater infrastructure planning in the North Coastal Planning Area. The planning effort identified infrastructure needs and matched them to transmission and treatment capacity upgrades respectively. This arrangement collects financial contributions based on development built out flows for available capacity in the existing wastewater transmission infrastructure previously funded by the County while at the same time eliminating the granting of "oversizing" credits.

The Department requests approval of an agreement for the Use of Existing Infrastructure with Middle Creek Preserve, LLC for the Middle Creek Preserve project in the Angola Neck Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project as well as off-site equivalent dwelling units to be conveyed through the existing transmission system previously constructed by the County.

Under the proposed arrangement, Middle Creek Preserve development will construct an on-site pumpstation and gravity collection system that will connect to existing regional infrastructure. In return for utilization of said infrastructure Middle Creek Preserve, LLC will contribute **\$83,520.00** for the perpetual use of these transmission facilities.





## **USE OF EXISTING INFRASTRUCTURE AGREEMENT**

### **MIDDLE CREEK PRESERVE**

THIS AGREEMENT ("Agreement"), made this 14 day of November 2017, by and between:

**SUSSEX COUNTY**, a political subdivision of the State of Delaware, hereinafter called the "County," and;

**MIDDLE CREEK PRESERVE, LLC**, a Delaware Limited Liability Company and developer of a project known as Middle Creek Preserve, hereinafter called the "Developer."

### **WITNESSETH:**

**WHEREAS**, Developer is developing several tracts of land identified as Tax Map parcel 234-11.00-51.00, 54.00, 54.01, 54.02, 54.03 & 234-12.00-14.00 to be known as Middle Creek Preserve ("Project") and;

**WHEREAS**, the Project is located in the Sussex County Unified Sanitary Sewer District (Angola Neck Area) and;

**WHEREAS**, County has determined by study known as North Coastal Planning Study, that the Project can be served by the regional infrastructure and;

**WHEREAS**, the Project will utilize available capacity in existing wastewater infrastructure previously funded by Sussex County.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein, which is hereby acknowledged by both parties as sufficient consideration, the parties hereby agree as follows:

- (1) Developer is proposing to utilize County's existing transmission capacity by connecting to an existing regional pipeline used by multiple pump stations, therefore avoiding off-site facilities construction.
- (2) In exchange for permission to connect up to 322 equivalent dwelling units to County's existing transmission system and to utilize the existing capacity in said system, Developer agrees to contribute \$83,520.00 for the perpetual use of said transmission facilities.
- (3) The contribution amount in the case of multiple pump stations using an existing transmission system is based on the ratio of average flow capacity utilization of said transmission facilities.



- (4) **Payment of the contribution must be submitted prior to receiving substantial completion for the first phase of the on-site collection system.**
- (5) If the Project (as currently approved) is amended and County determines in its sole discretion that such amendments materially affect this Agreement, this Agreement may be declared by County to be null and void, and any unused payments made pursuant to this Agreement shall be returned to Developer, unless the parties otherwise agree. Nothing herein shall prevent the parties from the negotiation of a new agreement with respect to the amended Project, as the parties may deem appropriate.
- (6) The contribution is to be placed in County's sewer capital fund and expended at such time when any transmission infrastructure in County's Unified Sanitary Sewer District requires upgrades or replacement.
- (7) Developer shall be responsible for payment of any and all undiscounted system connection charges in accordance with and pursuant to the requirements of Sections 110-90 and 110-91 of the *Sussex County Code* for all lots, due at such time the Developer receives the sewer connection permit.
- (8) Developer shall comply in all aspects with the *Sussex County Code* and any other local, state, county, or federal laws, regulations, or policies that may be applicable and as such may be hereinafter amended.
- (9) Prior to the commencement of construction of any sanitary sewer facilities for the Project, Developer shall obtain a project construction permit from the County in accordance with and pursuant to the requirements of Section 110-84 of the *Sussex County Code*.
- (10) In order to allow the opportunity for a County representative to be present as the County so chooses, Developer shall send written notice to County of the date upon which connection to the County regional transmission system will be made. Developer shall follow County's written or verbal instructions in making said connection to the County sanitary sewer system.
- (11) Developer may assign this Agreement in whole or in part to any entity controlled directly or indirectly by Developer or to any third party who purchases, leases or otherwise controls any portion of Developer's property without the consent of County. Developer, and any subsequent assignees or successors shall provide County at least ten (10) days' written notice of any such assignment. Any other assignments, transfers, or conveyances with respect to this Agreement are prohibited without prior written consent of County.



- (12) To the extent permitted by law, Developer shall indemnify and hold harmless County, and its appointed and elected officials, employees, licensees, and agents for any claims, losses, liabilities, suits, or damages, including but not limited to reasonable attorneys' fees, professional engineering fees, and any other costs of litigation, arising out of Developer's negligence in connection with its performance of this Agreement, including but not limited to damage to the County's infrastructure in making connection to County's regional transmission system. The obligations of this Paragraph shall survive the termination of this Agreement.
- (13) All the terms, covenants, and conditions of this Agreement shall in all respects be governed and construed under and pursuant to the Laws of the State of Delaware without respect to its conflict of law provisions. This Agreement may only be amended, supplemented or modified by a subsequent written agreement executed by all the parties hereto.
- (14) This Agreement and exhibits constitute the final, entire and exclusive agreement between the parties with respect to the subject matter of all matters discussed in it and supersedes all prior or contemporaneous discussions, statements, representations, warranties or agreements, whether written or oral, made in connection with the Agreement described herein.
- (15) It is mutually agreed between the parties that no review, approval, acceptance, and/or payment made under this Agreement shall be conclusive evidence of the performance of the Agreement, either wholly or in part, and that no review, approval, acceptance, and/or payment shall be construed as acceptance of defective work by County, nor in any way relieve Developer of its responsibility for the adequacy of its work.
- (16) The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Neither party shall be deemed to have waived any rights under this Agreement unless such waiver is expressly given in writing and signed by the waiving party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of such right or any other right.
- (17) This Agreement shall be executed in duplicate, any copy of which shall be considered and construed as and for the original.
- (18) If any provision of this Agreement shall be deemed invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not render invalid or unenforceable any of the other provisions of this Agreement which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Agreement are hereby deemed to be severable.



(19) Any notice required to be delivered to or by either party under this Agreement shall be sent by U.S. first class mail. For purposes of this provision, the address of the County is 2 The Circle, P.O. Box 589, Georgetown, Delaware, 19947, and the address of the Developer is 5950 Symphony Woods Drive, Columbia MD 21044.



IN WITNESS, WHEREOF, the respective parties hereto have affixed their hands  
and seals the day and year aforesaid.

**FOR THE COUNTY:**

{Seal}

By: \_\_\_\_\_  
(President - Sussex County Council)

\_\_\_\_\_ (DATE)

ATTEST:

\_\_\_\_\_  
Robin A. Griffith  
Clerk of the County Council

**FOR MIDDLE CREEK PRESERVE, LLC:**

By:  (Seal)  
Megan Conner

11-14-17 (DATE)

WITNESS: 





# SUSSEX COUNTY GOVERNMENT

## GRANT APPLICATION

### SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: *Greater Seaford Chamber of Commerce*  
PROJECT NAME: *Seaford Christmas Parade*  
FEDERAL TAX ID: *57-0109649* NON-PROFIT: ☒ YES ☐ NO

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

☐ YES ☒ NO \*IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: *The mission of the Chamber is to establish and maintain itself as the primary advocate, voice, and resource for businesses and organizations in the area we serve*

ADDRESS:

*304 A High Street*  
*Seaford*  
(CITY)

*DE*  
(STATE)

*19973*  
(ZIP)

CONTACT PERSON:

*Lynn Harman*  
*Executive Director*

TITLE:

PHONE:

*302-629-9690* EMAIL: *admin@seafordchamber.com*

TOTAL FUNDING REQUEST:

*500<sup>00</sup>*

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

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

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

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

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



## SECTION 2: PROGRAM DESCRIPTION

### PROGRAM CATEGORY (choose all that apply)

- ☐ Fair Housing  
☐ Infrastructure<sup>1</sup>

- ☐ Health and Human Services  
☐ Other \_\_\_\_\_

- ☒ Cultural  
☐ Educational

### BENEFICIARY CATEGORY

- ☐ Disability & Special Needs  
☐ Elderly Persons  
☐ Minority

- ☐ Victims of Domestic Violence  
☐ Low to Moderate Income<sup>2</sup>  
☒ Other *Community Outreach*

- ☐ Homeless  
☒ Youth

### BENEFICIARY NUMBER

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

*2500 - 3000*

## SECTION 3: PROGRAM SCOPE

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

*Downtown Seaford Christmas Parade, which has been a long standing Seaford tradition for over 30 years. It is completely organized by volunteers and funded through donations. The parade will be held this year on Saturday, December 2, 2017 at 7pm.*



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

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

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

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



#### SECTION 4: BUDGET

<b>REVENUE</b>	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
<b>TOTAL REVENUES</b>	0.00
<b>EXPENDITURES</b>	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Bands	1700.00
Rentals	650.00
Miscellaneous	400.00
Candy to be given	\$150.00
Trophies	\$600.00
<b>TOTAL EXPENDITURES</b>	\$3500.00
<b>TOTAL DEFICIT FOR PROJECT OR ORGANIZATION</b>	\$3500.00

#### SECTION 5: STATEMENT OF ASSURANCES

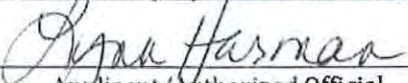
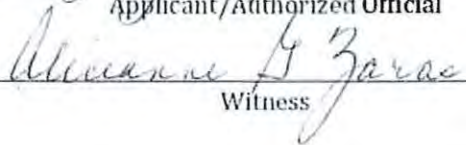
If this grant application is awarded funding, the Great Seafood Chamber agrees that:  
(Name of Organization)

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



**SECTION 5: STATEMENT OF ASSURANCES (continued)**

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

  
Applicant/Authorized Official  
  
Witness

11/20/17  
Date

11/20/17  
Date

Completed application can be submitted by:

Email: gjennings@sussexcountype.gov

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



*Handwritten initials*

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

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

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

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

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

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

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

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

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

*Ryann Hasman*  
Applicant/Authorized Official

*Executive Director*  
Title

*Alicianne B. Zaras* *11/20/17*  
Witness

*11/20/17*  
Date

*Vincent*  
*11-20-17*



**To Be Introduced 11/28/17**

**Council District No. 1 – Vincent**

**Tax I.D. No. 331-6.00-134.00**

**911 Address: 10404 Old Furnace Road, Seaford**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE CARE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 3.9713 ACRES, MORE OR LESS**

**WHEREAS, on the 30th day of October 2017, a conditional use application, denominated Conditional Use No. 2121, was filed on behalf of Cheryl Webster and Kenna Nethken; 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. 2121 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. 2121 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 Seaford Hundred, Sussex County, Delaware, and lying on the southwest side of Old Furnace Road, approximately 677 feet northwest of Middleford Road, and being more particularly described per the attached deed prepared by David W. Baker, Esq., P.A., said parcel containing 3.9713 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 11/28/17**

**Council District No. 3 – Burton**

**Tax I.D. No. 234-6.00-88.01**

**911 Address: 20182 Robinsonville Road, Lewes**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLANT, TREE, AND LAWN CARE DIAGNOSTIC CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS**

**WHEREAS, on the 8th day of November 2017, a conditional use application, denominated Conditional Use No. 2122, was filed on behalf of Richard Thurman Jr. (Arbor Care); 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. 2122 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. 2122 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 Robinsonville Road, approximately 1,737 feet south of Kendale Road, and being more particularly described per the attached deed prepared by Griffin & Robertson, P.A., said parcel containing 4.0 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.**



MARTIN L. ROSS, CHAIRMAN  
KIM HOEY STEVENSON, VICE CHAIRMAN  
R. KELLER HOPKINS  
DOUGLAS B HUDSON  
ROBERT C. WHEATLEY



2 THE CIRCLE I PO BOX 417  
GEORGETOWN, DE 19947  
(302) 855-7878 T  
(302) 854-5079 F  
sussexcountyde.gov

## Sussex County Planning & Zoning Commission

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date October 26, 2017

Application: CZ 1830 H. Dale Parsons KH

Applicant/Owner: H. Dale Parsons  
107 Anglers Rd.  
Lewes, DE 19958

Site Location: Southeast corner of Lewes-Georgetown Hwy. (Rt. 9) and Steiner Rd.

Current Zoning: AR-1 (Agricultural Residential District) and C-1 (General Commercial District)

Proposed Zoning: CR-1 (Commercial Residential District) and C-1 (General Commercial District)

Comprehensive Land  
Use Plan Reference: Highway Commercial Areas

Councilmatic  
District: Mr. Wilson

School District: Indian River School District

Fire District: Georgetown Fire District

Sewer: Private on-site septic

Water: Private on-site well

Site Area: 24.98 ac. +/-

Tax Map ID.: 135-16.00-23.00 (portion of)



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE I PO BOX 417  
GEORGETOWN, DELAWARE 19947



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



**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 18, 2017

RE: County Council Report for CZ 1830 H. Dale Parsons

---

The Planning and Zoning Department received an application (CZ 1830 H. Dale Parsons) to allow for a change in zone from AR-1 (Agricultural Residential District) to CR-1 (General Residential District). The Planning and Zoning Commission held a public hearing on October 26, 2017. The following are the 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 staff analysis, comments from Sussex Conservation District, results from the DelDOT the Service Level Evaluation stating a TIS is not required, a site plan, and an exhibit booklet.

The Commission found that Mark Davidson, with Pennoni Associates and H. D. Parsons were present on behalf of the application; that Mr. Davidson stated that the applicant would like to rezone a portion of the parcel on Route 9; that they subdivided four, two acre lots along the frontage and they are zoned C-1; that 26 acres of the property is zoned C-1; that back portion of the property which is approximately 24.98 acres is zoned AR-1; that along the back of the property is a Railroad; that there are two buildings on the site which are about 5,000 square feet; that Mr. Parsons is the owner of a charter boat business and has owned this parcel for about 20 years; that one of the buildings is in an AR-1 zone and wants to bring all of the property into compliance; that in the Comprehensive Plan the property is identified as a Highway Commercial Area; that there are other commercial zone properties in the area; that across the street is a Limited Industrial zoned property; that the property is located in a State Strategy Level 4 but adjacent properties are in Level 2 and Level 3; that the proposed zoning meets the general purpose of the Zoning Ordinance; that they will keep the entrance off of Steiner Road; and that in the future there may be an entrance off of Route 9.

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

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

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.



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



Mr. Hopkins, moved that the Commission recommend approval of CZ# 1830 for H. Dale Parsons for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located along Route 9 between that roadway and railroad tracks running from Lewes to Georgetown.
2. The property currently has a split zoning, with half the parcel along Route 9 being commercial, and the back half being AR-1.
3. This rezoning will make the commercial zoning boundary consistent with the property boundaries. And, it is consistent with the physical boundaries of the property created by Route 9 and the railroad tracks.
4. The rezoning is consistent with the area, which includes commercial zoning on either side of the site and across Route 9. Business and commercial uses in the area include a plumbing/HVAC contractor, a site work contractor and a small contractor/industrial center.
5. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
6. No parties appeared in opposition to this rezoning.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.



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



**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Director  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 19, 2017  
RE: Staff Analysis for CZ 1830 H. Dale Parsons

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1830 H. Dale Parsons to be reviewed during the October 26, 2017 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 135-16.00-23.00 (portion of) to allow for the change of zone from AR-1 (Agricultural Residential District) and C-1 (General Commercial District) to CR-1 (Commercial Residential District) and C-1 (General Commercial District). The size of the property is 24.98 ac. +/-.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation Highway Commercial Areas.

The surrounding land use to the north is Highway Commercial Areas and Low Density. The land use to the west is Highway Commercial Areas and Developing Areas. The land use to the south is Low Density Areas. The land use to the east is Highway Commercial Areas. The Highway Commercial Areas land use designations recognizes that these areas include highway commercial corridors, shopping centers, and other large commercial areas geared toward vehicular traffic and would be appropriate for hotels, motels, car washes, auto dealerships, etc. The CR-1 (Commercial Residential District) is a zoning district that can be considered in the Highway Commercial Areas land use classification.

The property is zoned AR-1 (Agricultural Residential District) and C-1 (General Commercial District). The properties to the north are zoned LI-2 (Light Industrial District) and C-1 (General Commercial District). The properties to the west are zoned AR-1 (Agricultural Residential District) and C-1 (General Commercial District). The properties to the south are zoned AR-1 (Agricultural Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone request to allow for from AR-1 (Agricultural Residential District) and C-1 (General Commercial District) to CR-1 (Commercial Residential District) and C-1 (General Commercial District) would be considered consistent with the land use, surrounding zoning and uses.







### Addresses / Parcels

- TaxParcels

### Council Districts

- Fire Districts
- County District 01
- County District 02
- County District 03
- County District 04
- County District 05
- County Boundaries

### Schools/Libraries

- School Buildings (Various)
- School Library
- Public Library
- Special Library
- DOE School Districts
- DOE VoTech School Districts

### Hydrology

- Streams / Rivers
- Lakes, Ponds, Bays

### Flood Zones

- 0.2% Annual Chance Flood Hazard
- A
- AE
- AO
- Open Water
- VE

- Public Protected Lands
- Municipalities
- Communities
- Boundaries State County

Sussex County, Sussex County Government, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

## Sussex County Map

0 312.5 625 1,250 1,875 2,500 Feet





#### Addresses / Parcels

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- Fire Districts
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Sussex County Government, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

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Sussex County Government, Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

## Sussex County Map

0 312.5 625 1,250 1,875 2,500 Feet



**Introduced 06/13/17**

**Council District No. 2 - Wilson  
Tax I.D. No. 135-16.00-23.00  
911 Address: Not Available**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS**

**WHEREAS, on the 26th day of May 2017, a zoning application, denominated Change of Zone No. 1830, was filed on behalf of H. Dale Parsons; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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. 1830 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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 CR-1 Commercial Residential 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 Georgetown Hundred, Sussex County, Delaware, and lying on the southeast corner of Lewes Georgetown Highway (Route 9) and Steiner Road, and being more particularly described per the attached survey prepared by Pennoni Associates, Inc., and Adams-Kemp Associates, Inc., said parcel containing 24.98 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.**



MARTIN L. ROSS, CHAIRMAN  
KIM HOEY STEVENSON, VICE CHAIRMAN  
R. KELLER HOPKINS  
DOUGLAS B HUDSON  
ROBERT C. WHEATLEY



2 THE CIRCLE I PO BOX 417  
GEORGETOWN, DE 19947  
(302) 855-7878 T  
(302) 854-5079 F  
sussexcountyde.gov

## Sussex County Planning & Zoning Commission

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET  
Planning Commission Public Hearing Date October 26, 2017

Application: CZ 1831 East Gate Farm, Inc. KS

Applicant/Owner: East Gate Farm, Inc.  
7 Eugene Cir.  
Lincoln Park, NJ 07035

Site Location: South side of Cedar Neck Rd. approximately 900 ft. east of Coastal Hwy. (Rt. 1)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: B-1 (Neighborhood Business District)

Comprehensive Land  
Use Plan Reference: Town Center

Councilmatic  
District: Mr. Burton

School District: Milford School District

Fire District: Carlisle Fire District

Sewer: Private on-site septic

Water: Private on-site well

Site Area: 16.669 ac. +/-

Tax Map ID.: 330-11.00-73.09



COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE I PO BOX 417  
GEORGETOWN, DELAWARE 19947



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PLANNING & ZONING DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F  
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**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 18, 2017

RE: County Council Report for CZ 1831 East Gate Farm, Inc.

---

The Planning and Zoning Department received an application (CZ 1831 East Gate Farm, Inc.) to allow for a change in zone from AR-1 (Agricultural Residential District) to B-1 (Neighborhood Business District). The Planning and Zoning Commission held a public hearing on October 26, 2017. The following are the 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 staff analysis, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation that stated a TIS is not required, a site plan, and an exhibit book.

The Commission found that Dennis Schrader, Esquire of Morris James Wilson Halbrook and Bayard, LLP, Anthony Concurso, principal owner of East Gate Farm, Inc., Ken Christenbury, with Axiom Engineering, and D. J. Hughes, with Davis, Bowen, & Freidel Inc. were present on behalf of the application; that Mr. Schrader stated that the 16.7 acre parcel is near Milford; that the property is unique in size; that the property is located across from the new Bayhealth Medical Campus; that the property is currently zoned AR-1 and the applicant would like to rezone the property to B-1; that the development of this property is for professional or general offices; that it is in State Strategy Level 3; that the Comprehensive Plan identifies the property as a Town Center land use; that Mr. Christenbury stated that the property is different than it is today with the interchange; that other properties are zoned Highway Commercial by the City of Milford; that the property is not eligible for annexation and are not able to get their utilities; that there are no wetlands on the property and it is suitable for on-site septic; that any use will be limited to low water users; that restaurants are not suitable for this property but professional offices with low water usage are suitable; that in the future the property could be annexed into the City of Milford; that Mr. Hughes spoke that the property is located near the access bridge and do not have access to Route 1; that if the rezoning is approved, a site plan will be submitted to DelDOT for approval of the entrance; that Mr. Concurso stated that he has owned the property since 2002; that he lost less than one acre to DelDOT; that he has been growing shrubs and some trees which are located in the back corner of the property; that he found another property sufficient to have a nursery; that he agrees with the proposed uses; that the staff analysis concluded that this application, if granted would be consistent with the Comprehensive



COUNTY ADMINISTRATIVE OFFICES  
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GEORGETOWN, DELAWARE



Plan; that the project did not require PLUS review; that they cannot go above 50,000 square feet on this site; and that a proposed Findings of Facts were submitted in the exhibit book.

The Commission found that there was no one in support of or in opposition to the application.

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

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

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.

Ms. Stevenson, moved that the Commission recommend approval of Change in Zone # 1831 for East Gate Farm, Inc. for a change in zone from AR-1 to B-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located near the boundary of the City of Milford along Cedar Neck Road close to the intersection with Route 1, which is a principal arterial highway. This is a new grade-separated intersection that provides direct access to the new Bayhealth Campus.
2. According to the County's Comprehensive Land Use Plan, the site is identified as being part of a Town Center Area. B-1 Zoning is appropriate within the Town Center Area.
3. The site is basically surrounded by the City of Milford, but because of roads and other factors is not contiguous to the City. This makes it an appropriate location for B-1 zoning.
4. According to the Zoning Code, B-1 Zoning is appropriate "to provide retail shopping and personal service uses, ... to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods." This application satisfies this purpose of B-1 Zoning.
5. The B-1 District is the most limited commercial zoning district in the County. It is appropriate in this location since it will limit the type and size of the uses that may occur at the site.
6. The rezoning to B-1 will be in character with the developing nature of the area in that it will serve the residents of the greater Milford community by creating an office center in the area of the soon-to-be-completed Health Campus. New medical and general offices on this site will be integrated in this area that is developing with residential and healthcare uses.
7. No parties appeared in opposition to the proposed rezoning.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.



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**Sussex County**  
DELAWARE  
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## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Director  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 19, 2017  
RE: Staff Analysis for CZ 1831 East Gate Farm, Inc.

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1831 East Gate Farm, Inc. to be reviewed during the October 26, 2017 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 330-11.00-73.09 to allow for the change of zone from AR-1 (Agricultural Residential District) to B-1 (Neighborhood Business District). The size of the property is 16.669 ac. +/-.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation Town Center.

The surrounding land use to the north, south east and west are Town Center. The Town Center land use designations recognizes that a mixture of housing types should be permitted "...including single-family homes, townhouses and multi-family units. Commercial uses should serve the daily needs of the residents, workers and visitors. Retail and office uses compatible with adjacent areas are appropriate. Some smaller scale, low impact industrial operations may be appropriate, but larger industrial uses are proposed to be directed to General Industrial areas. Appropriate mixtures of residential, institution and light commercial uses should be allowed". The CR-1 (Commercial Residential District) is a zoning district that can be considered in the Town Center land use classification.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, south, east and west are zoned AR-1 (Agricultural Residential District). Staff notes that there are several parcels to the north and west (across SR 1) that are located within the City of Milford. There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone request to allow for from AR-1 (Agricultural Residential District) to B-1 (Neighborhood Business District) could be considered consistent with the land use, surrounding zoning and uses.







#### Addresses / Parcels

Tax Parcels

#### Council Districts

Fire Districts

County District 01

County District 02

County District 03

County District 04

County District 05

County Boundaries

#### Schools/Libraries

School Buildings (Various)

School Library

Public Library

Special Library

DOE School Districts

DOE VoTech School Districts

#### Hydrology

Streams / Rivers

Lakes, Ponds, Bays

#### Flood Zones

0.2% Annual Chance Flood Hazard

A

AE

AO

Open Water

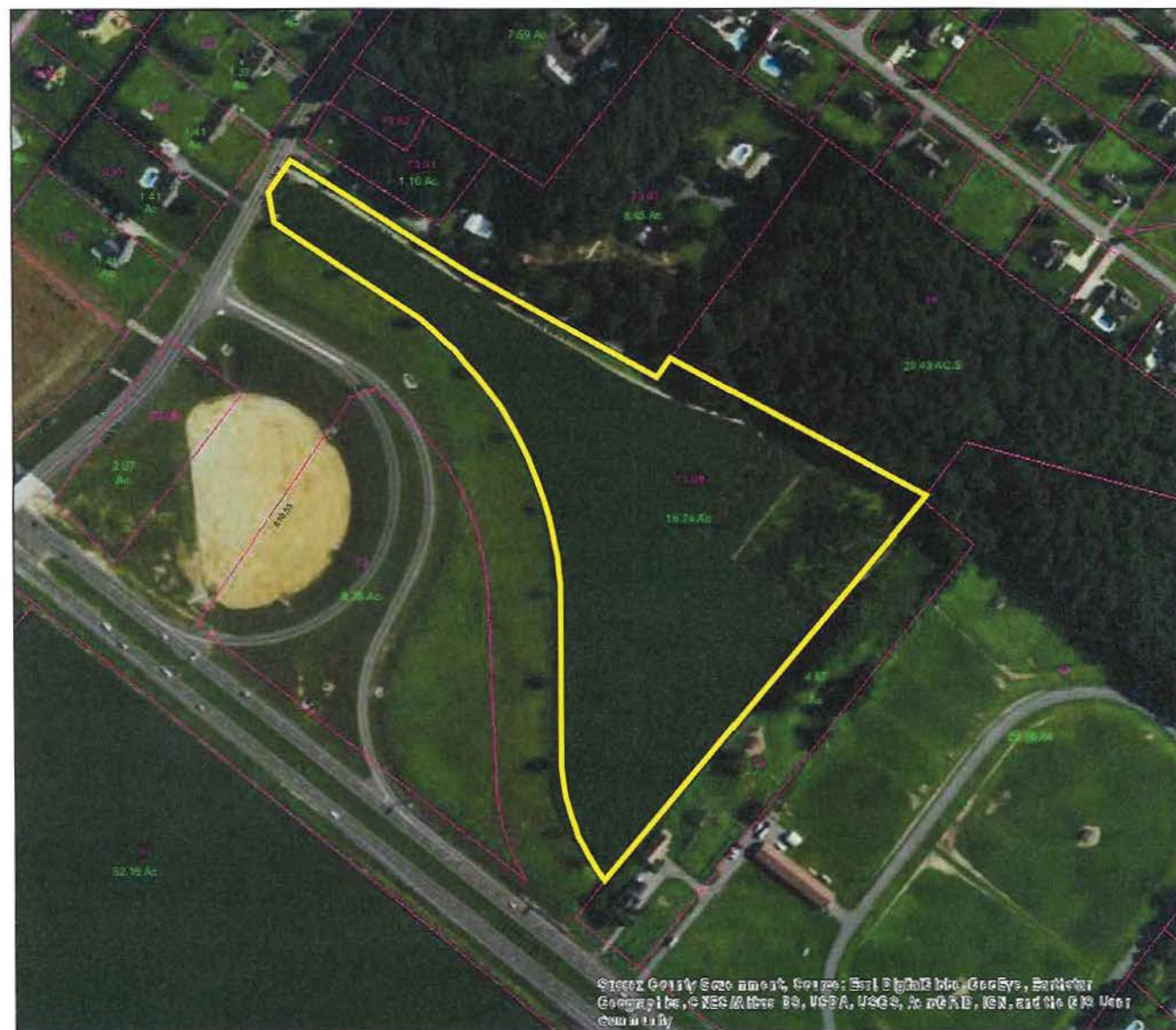
VE

Public Protected Lands

Municipalities

Communities

Boundaries State County



Sussex County Map

0 155 310 620 930 1,240 Feet





#### Addresses / Parcels

- TaxParcels

#### Council Districts

- Fire Districts
- County District 01
- County District 02
- County District 03
- County District 04
- County District 05
- County Boundaries

#### Schools/Libraries

- School Buildings (Various)
- School Library
- Public Library
- Special Library
- DOE School Districts
- DOE VoTech School Districts

#### Hydrology

- Streams / Rivers
- Lakes, Ponds, Bays

#### Flood Zones

- 0.2% Annual Chance Flood Hazard
- A
- AE
- AO
- Open Water
- VE

#### Public Protected Lands

- Municipalities
- Communities
- Boundaries State County

DALPF, Sussex County, Sussex County Government, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community

## Sussex County Map

0 625 1,250 2,500 3,750 5,000 Feet





#### Addresses / Parcels

TaxParcels

#### Council Districts

Fire Districts

County District 01

County District 02

County District 03

County District 04

County District 05

County Boundaries

#### Schools/Libraries

School Buildings (Various)

School Library

Public Library

Special Library

DOE School Districts

DOE VoTech School Districts

#### Hydrology

Streams / Rivers

Lakes, Ponds, Bays

#### Flood Zones

0.2% Annual Chance  
Flood Hazard

A

AE

AO

Open Water

VE

Public Protected Lands

Municipalities

Communities

Boundaries State County



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community, Sussex County, Sussex County Government

### Sussex County Map

0 155 310 620 930 1,240 Feet





### Addresses / Parcels

□ Tax Parcels

### Council Districts

□ Fire Districts

County District 01

County District 02

County District 03

County District 04

County District 05

□ County Boundaries

### Schools/Libraries

▮ School Buildings (Various)

▮ School Library

▮ Public Library

▮ Special Library

▮ DOE School Districts

▮ DOE VoTech School Districts

### Hydrology

▮ Streams / Rivers

▮ Lakes, Ponds, Bays

### Flood Zones

▮ 0.2% Annual Chance Flood Hazard

▮ A

▮ AE

▮ AO

▮ Open Water

▮ VE

▮ Public Protected Lands

▮ Municipalities

▮ Communities

▮ Boundaries State County



**Sussex County Map**

Sussex County Government, Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT, P, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community



**Introduced 07/25/17**

**Council District No. 3 – Burton  
Tax I.D. No. 330-11.00-73.09  
911 Address: Not Available**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS**

**WHEREAS, on the 6th day of June 2017, a zoning application, denominated Change of Zone No. 1831, was filed on behalf of East Gate Farm, Inc.; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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. 1831 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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 B-1 Neighborhood Business 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 Cedar Creek Hundred, Sussex County, Delaware, and lying on the south side of Cedar Neck Road, approximately 900 feet east of Coastal Highway (Route 1), and being more particularly described per the attached deed prepared by Delaware Department of Transportation, said parcel containing 16.669 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.**



MARTIN L. ROSS, CHAIRMAN  
KIM HOEY STEVENSON, VICE CHAIRMAN  
R. KELLER HOPKINS  
DOUGLAS B HUDSON  
ROBERT C. WHEATLEY



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## Sussex County Planning & Zoning Commission

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET  
Planning Commission Public Hearing Date October 26, 2017

Application: CZ 1833 Eaglesnest Fellowship Church KS

Applicant/Owner: Eaglesnest Fellowship Church  
26633 Zion Church Rd.  
Milton, DE 19968

] Site Location: Northeast corner of Reynolds Rd. and Broadkill Rd. (Rt. 16)

Current Zoning: AR-1 (Agricultural Residential District)

Proposed Zoning: CR-1 (Commercial Residential District)

Comprehensive Land  
Use Plan Reference: Developing Areas

Councilmatic  
District: Mr. Burton

School District: Cape Henlopen School District

Fire District: Milton Fire District

Sewer: Private on-site septic

Water: Private on-site well

Site Area: 2.13 ac. +/-

Tax Map ID.: 235-15.00-7.01



COUNTY ADMINISTRATIVE OFFICES  
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DELAWARE  
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## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 18, 2017

RE: County Council Report for CZ 1833 Eagles Nest Fellowship Church.

---

The Planning and Zoning Department received an application (CZ 1833 Eagles Nest Fellowship Church to allow for a change in zone from AR-1 (Agricultural Residential District) to CZ 1833 Eagles Nest Fellowship Church). The Planning and Zoning Commission held a public hearing on October 26, 2017. The following are the minutes and motion for the Conditional Use from the Planning and Zoning Commission meeting.

Mr. Wheatley and Ms. Stevenson recused themselves.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation that stated a TIS is not required, a survey, and an exhibit book.

The Commission found that Mark Davidson, Principal Land Planner with Pennoni Associates, Pastor Bob Weed, Pastor John McTernan, Pastor John Hoenen, Drew Sammons, and Matt Windsor, Board of Directors for Eagles Nest Fellowship Church were present on behalf of the application; that Mr. Davidson stated that this application is to rezone the property for an AR-1 to CR-1; that property is approximately 2.13 acres in size; that the property is located on the north side of Route 16 and on the east side of Reynolds Road; that there are several C-1 and CR-1 uses across the road; that they have owned the property since 1995; that the buildings were built in 1941; that it use to be an old feed store and used for commercial activities over the years; that the property is currently being use by the church for youth group activities; that the property started out as being Eagles Nest Church prior to them moving to their current location; that property was being used for a daycare, preschool, and other church related activities throughout the years; that the church would like to lease the property and use it for commercial activities; that CR-1 zone allows for agricultural repair, sales, etc. which will allow the church many opportunities to be able to utilize this property, and expand what they are currently doing; that the Comprehensive Plan states that this area is in a Developing Area; that majority of the site is a State Strategies Level 2 area; that the property is being served by an on-site well and an on-site septic system that has been permitted through DNREC; that the site is keeping in with the character of section of Route 16; that property is located on Route



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



16 with is a major collector road and near Route 1; that it is good for the welfare and property of the County; and that there are Findings of Facts in the exhibit booklet.

The Commission found that there was no one in support of or in opposition to the application.

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

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried three (3) to defer action for further consideration. Motion carried 3-0.

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.

Mr. Hudson, moved that the Commission recommend approval of Change in Zone # 1833 for Eagles Nest Fellowship Church for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located along Route 16 near the town limits of Milton. It is on a property that has been historically used for commercial purposes, starting as a feed store in the 1940s. Since then, it has been used as church and for youth group activities.
2. The site is at an intersection where other Commercially zoned properties exist. The CR-1 zoning will be consistent with the area zoning and uses.
3. The site is in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 Zoning is appropriate within this Area according to the Plan
4. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
5. Whenever this property is developed for a particular use, the applicant will be required to meet or exceed all DelDOT requirements. DelDOT will determine where appropriate entrance locations should be.
6. CR-1 Zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for a wide variety of commercial and service activities generally serving a wide area, and that such uses should be located along existing major thoroughfares where a general mixture of commercial and service activities now exist. In this case, the rezoning along Route 16 falls within the stated purposes of the CR-1 District.
7. Any development of the site will require preliminary and final site plan review by the Sussex County Planning and Zoning Commission.
8. This recommendation is not an indication that Commercial Zoning is appropriate along Route 16 in general. Route 16 is an important east-west roadway in Sussex County connecting to Route 1. This site is appropriate because it is at an intersection that has already developed commercially. However, the County should proceed carefully with any commercial rezonings along Route 16 to preserve the travel corridor.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 3-0. Ms. Stevenson recused.



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**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Director  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 19, 2017  
RE: Staff Analysis for CZ 1833 Eaglesnest Fellowship Church

---

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1833 Eaglesnest Fellowship Church to be reviewed during the October 26, 2017 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Change of Zone for parcel 235-15.00-7.01 to allow for the change of zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District). The size of the property is 2.13 ac. +/-.

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation Developing Areas.

The surrounding land use to the north, east and west are Developing Areas. The land use to the south is Low Density. The Developing Areas land use designations recognizes that a range of housing types are appropriate including single family, townhouses and multifamily dwellings. It also recognizes that a variety of office uses would be appropriate along with a careful mixture of homes with light commercial and institutional uses to allow for convenient services and allow people to work close to home. The CR-1 (Commercial Residential District) is a zoning district that can be considered in the Developing Areas land use classification.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north, east and west are zoned AR-1 (Agricultural Residential District). The parcels to the south (across Broadkill Rd.) are zoned C-1 (General Commercial District) and CR-1 (Commercial Residential District).

Based on the analysis of the land use, surrounding zoning and uses, the Change of Zone request to allow for from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District) could be considered consistent with the land use, surrounding zoning and uses.







#### Addresses / Parcels

- TaxParcels

#### Council Districts

- Fire Districts
- County District 01
- County District 02
- County District 03
- County District 04
- County District 05
- County Boundaries

#### Schools/Libraries

- School Buildings (Various)
- School Library
- Public Library
- Special Library
- DOE School Districts
- DOE VoTech School Districts

#### Hydrology

- Streams / Rivers
- Lakes, Ponds, Bays

#### Flood Zones

- 0.2% Annual Chance Flood Hazard
- A
- AE
- AO
- Open Water
- VE

#### Public Protected Lands

- Municipalities
- Communities
- Boundaries State County



Sussex County Government, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Sussex County Map**

0 155 310 620 930 1,240 Feet





### Addresses / Parcels

- Tax Parcels

### Council Districts

- Fire Districts
- County District 01
- County District 02
- County District 03
- County District 04
- County District 05
- County Boundaries

### Schools/Libraries

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- DOE VoTech School Districts

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### Flood Zones

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- Public Protected Lands
- Municipalities
- Communities
- Boundaries State County



**Sussex County Map**

0 155 310 620 930 1,240 Feet





### Addresses / Parcels

■ TaxParcels

### Council Districts

■ Fire Districts

■ County District 01

■ County District 02

■ County District 03

■ County District 04

■ County District 05

□ County Boundaries

### Schools/Libraries

■ School Buildings (Various)

■ School Library

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■ DOE School Districts

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### Hydrology

■ Streams / Rivers

■ Lakes, Ponds, Bays

### Flood Zones

■ 0.2% Annual Chance Flood Hazard

■ A

■ AE

■ AO

■ Open Water

■ VE

■ Public Protected Lands

■ Municipalities

■ Communities

■ Boundaries State County



**Sussex County Map**

0 155 310 620 930 1,240 Feet



**Introduced 07/25/17**

**Council District No. 3 – Burton**

**Tax I.D. No. 235-15.00-7.01**

**911 Address: 13275 Reynolds Road and 26381 Broadkill Road, Milton**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR LESS**

**WHEREAS, on the 6th day of June 2017, a zoning application, denominated Change of Zone No. 1833, was filed on behalf of Eagles Nest Fellowship Church; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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. 1833 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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 CR-1 Commercial Residential 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 Broadkill Hundred, Sussex County, Delaware, and lying at the northeast corner of Reynolds Road and Broadkill Road, and being more particularly described on the attached survey prepared by Pennoni Associates, Inc., said parcel containing 2.13 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.**



MARTIN L. ROSS, CHAIRMAN  
KIM HOEY STEVENSON, VICE CHAIRMAN  
R. KELLER HOPKINS  
DOUGLAS B HUDSON  
ROBERT C. WHEATLEY



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sussexcountyde.gov

## Sussex County Planning & Zoning Commission

### PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET Planning Commission Public Hearing Date October 26, 2017

Application: CU 2105 Thomas R. Engel KH

Applicant/Owner: Thomas R. Engel  
33058 Nassau Loop  
Lewes, DE 19958

Site Location: 20132 Doddtown Rd.  
Northwest side of Doddtown Rd. approximately 1600 ft. southwest of Harbeson Rd.

Current Zoning: AR-1 (Agricultural Residential District)

Current Use: Residential

Proposed Use: Commercial Landscaping Business outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business.

Comprehensive Land  
Use Plan Reference: Low Density Areas and Planned Industrial Areas

Councilmatic  
District: Mr. Burton

School District: Indian River School District

Fire District: Milton Fire District

Sewer: Private on-site septic

Water: Private on-site well

Site Area: 25.156 ac. +/-

Tax Map ID.: 235-30.00-103.09



COUNTY ADMINISTRATIVE OFFICES  
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GEORGETOWN, DELAWARE 19947



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**Sussex County**  
DELAWARE  
sussexcountype.gov

## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 18, 2017

RE: County Council Report for CU 2105 Thomas R. Engel

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The Planning and Zoning Department received an application (CU 2105 Thomas R. Engel) to allow for Commercial Landscaping Business outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business. The Planning and Zoning Commission held a public hearing on October 26, 2017. The following are the 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 staff analysis, exhibit booklet, comments from Sussex Conservation District and results from the DelDOT Service Level Evaluation stating a TIS is not required.

The Commission found that Aaron Baker, Attorney with Baird Mandalas Brockstedt, LLC and Thomas Engel were present on behalf of the application; that Mr. Baker stated that applicant purchased the property in June of 2016 and has spent money and time cleaning up the site; that trucks have entered the site to bring and take dumpsters to clean up the site; that the applicant owns Double E Lawn Care and it is currently operated out of Lewes; that the applicant is looking to use part of the two of the existing buildings for storage of vehicles and materials for the business; that the employees will pick up the vehicles and materials in the morning on week days and return in the late afternoon; that they occasionally work on Saturdays with a three to four man crew that will collect and return vehicles and equipment; that there is no operation on Sundays; that the vehicles do not require a CDL licenses; that only eight employee vehicles and 12 commercial vehicles will be on the property at any one time; that none of the proposed uses will be visible from the property; that there will be no in-person business; that they will not use the site to store yard waste and debris; that they will no use the site to chip or grind any material as part of the business; that the proposed use is to store vehicles, equipment, and some related materials on the property to be retrieved by employees in the morning and return in the evening; that this use is similar to other uses in AR-1 and the Comprehensive Plan; that a Conditional Use was approved in the area; that in 2011 the County adopted Ordinance 2246 which granted a Conditional Use of approval for a nearby property owner to use their property for a manufactured home placement business as a place for trucks, equipment, to be stored, collected by employees in the morning and returned in the evening; that the County approved a nearly identical use in a nearly identical location; that this property is a ¼ mile off of the road; that it is a less intense use than that use already approved by the County; that



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DelDOT did not warrant a TIS; that they submitted a list of proposed conditions to limit the number of business vehicles and employees permitted on the property and restrict the hours of operation; that the hours of operation are Monday through Saturday 6:30 am to 5:00 pm; that on rainy days they may be back early to the site; that they are not proposing a sign; that the site is purely for storage of material and equipment; that there will occasionally be deliveries to the site; that they go to other location to get the mulch and any leftovers may be stored on the site; that mulch is not delivered to the site; that if a truck has to deliver to the site is a place for the truck to turn around; that they do sharpen the blades inside the building and it takes about 15 minutes to sharpen the blades; that there are no further plans of clearing the property; that sometime in the future he may sell his land on New Road; and that the location of the property is nice to live there and near the business they currently use.

The Commission found that Tom Colucci spoke in support of this application; that he has worked with Tom and he is a man of his word; and that he would like to see him get the opportunity to do this.

The Commission found that Michael Schlitter, Vincent Lickman, Diane Johnson, Zeljko Jaron, Patricia Beckley, and Mary Ann Hughes spoke in opposition to the application; that Mr. Schlitter stated that he has concerns with noise and diesel fumes; that there has been a lot of storage containers in and out of the property; that he was in violation with the Department of Agricultural in May 10, 2017 for improper use of pesticides; that he let his pesticides license expire in December 31, 2003; that there are concerns with storage of pesticides; that they have concerns with traffic; that they are afraid Doddtown Road will become an industrial area; that Mr. Lickman stated that DelDOT said no trucks over two axels are permitted on the road; that he spoke with Kyle Banks from DelDOT and Mr. Banks stated that no tractor trailers are permitted on Doddtown Road; that Ms. Johnson stated that the previous owner built the buildings for migrant workers and the neighbors opposed it; that the bins filled with all kinds of things; that there is another business on the property; that the business is to only help himself; that she is not sure he lives on the site; that there were other business trucks on the property during the summer; that Mr. Engel stated that he would like a dumpster on the site; that there are no tri axels or containers on-site; that Mr. Jaron submitted videos of the site; that Ms. Beckley stated that she has concerns with speeding traffic; that she can't be outside due the speeding cars; that the road is a narrow road; that Ms. Hughes spoke that the use does not belong on Doddtown Road; that Mr. Engel stated that a friend with large trucks were in and out on the property along with his own dumpsters to clean up the site and he is OK with a fence to screen the dumpster; that he is willing to install a landscape buffer along the road; that his driveway is 20 feet wide and it is paved; and that only non CDL vehicles will travel Doddtown Road.

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

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

At their meeting on November 16, 2017, the Planning Commission discussed the application which had been deferred since October 26, 2017.



Ms. Stevenson, moved that the Commission recommend approval of Conditional Use # 2105 for Thomas Engel for a landscape business with vehicle and equipment storage based upon the record made during the public hearing and for the following reasons:

1. The property is a 25-acre parcel located on Doddtown Road approximately 1/3 of a mile from Route 5 and 2/3s of a mile from the Route 5/Route 9 intersection. Only a portion of the property will be used for the Conditional Use.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.
3. The activities of the conditional use will be confined to the area around two existing 7,000 square foot pole buildings that are located approximately 1,400 feet back from the front property line. They are not visible from Doddtown Road.
4. The applicant has stated that he intends to reside on the property.
5. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site.
6. There will be no retail sales from the property, and the use is limited in nature. With the conditions and limitations placed upon it, the use will not adversely affect neighboring properties, roadways or traffic.
7. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
8. The property is served by a well and septic system.
9. This recommendation is subject to the following conditions:
  - A. This use shall be limited to a landscaping business with vehicle and equipment storage. No other businesses shall be conducted on the site, and no vehicles associated with any other business shall be parked on the site. No retail sales shall be conducted from the site.
  - B. There shall not be any Conex-type metal storage containers, metal shipping containers, roll-off containers or dumpsters brought to the site or stored on the site, other than one dumpster to be used for refuse associated with the business.
  - C. No manufacturing shall occur on the site. This prohibition includes the chipping, shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
  - D. As stated by the applicant, no sign shall be permitted.
  - E. The hours of operation shall be limited to 6:30 am through 5:00 pm, Monday through Saturday.
  - F. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
  - G. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
  - H. No trucks with more than two axles shall be permitted on the site for any use. This includes business vehicles, employee vehicles, and deliveries.
  - I. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.



- K. No more than 10 employee vehicles shall be permitted on the site at any one time, and no more than 12 commercial vehicles, including trailers, shall be permitted on the site at any one time. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- L. All equipment and vehicle maintenance and repair shall occur indoors.
- M. Visual screening in the form of fencing or landscaping shall be installed in any place where the roadway providing access to the conditional use area is within 20 feet of a neighboring property. These areas, along with the method of screening, shall be shown on the Final Site Plan.
- N. This conditional use is not permitted on the entire 25-acre parcel. It shall be limited to the cleared area immediately adjacent to the existing pole buildings and the roadway providing access to this area. The Final Site Plan shall contain boundaries clearly depicting the Conditional Use area for the review and approval of the Commission.
- O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4-0.



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## Memorandum

To: Sussex County Planning Commission Members  
From: Janelle Cornwell, AICP, Planning & Zoning Director  
CC: Vince Robertson, Assistant County Attorney and applicant  
Date: October 19, 2017  
RE: Staff Analysis for CU 2105 Thomas R. Engel

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CU 2105 Thomas R. Engel to be reviewed during the October 26, 2017 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for parcel 235-30.00-103.09 to allow for the use of commercial landscaping business outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business. The size of the property is 25.156 ac. +/- The property is zoned AR-1 (Agricultural Residential District).

The 2008 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map indicates that the properties have the land use designation Low Density Areas and Planned Industrial Areas.

The surrounding land use to the north is Planned Industrial Areas. The land use to the west is Low Density Areas and Planned Industrial Areas. The land use to the south is Low Density Areas. The land use to the east is Low Density Areas and Developing Areas. The Low Density Areas land use designations recognizes that a range that business development should be largely confined to businesses that address the needs of single family residences and agriculture. It should also permit industrial uses that support or depend on agricultural uses. The focus of retail and office should provide convenience goods and services to nearby residents and should be limited in their location, size and hours of operation. The Planned Industrial Areas recognizes that conventional industrial parks, or planned business parks with a unified design that incorporate a combination of light industry and other business uses and that large, more intensive stand-alone industrial uses should be directed to these areas.

The property is zoned AR-1 (Agricultural Residential District). The properties to the north are zoned HI-1 (Heavy Industrial District). The properties to the west are zoned AR-1 (Agricultural Residential District). The properties to the east are zoned AR-1 (Agricultural Residential District) and MR (Medium Density Residential District). The properties to the south are zoned AR-1 (Agricultural Residential District). There are no known Conditional Uses in the area.

Based on the analysis of the land use, surrounding zoning and uses, the Conditional Use request to allow for commercial landscaping business outdoor parking, storage of vehicles, equipment and other ancillary storage related to the business could be considered consistent with the land use, surrounding zoning and uses.



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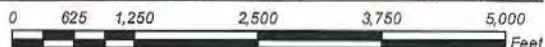




### Addresses / Parcels

-  TaxParcels
- Council Districts**
-  Fire Districts
-  County District 01
-  County District 02
-  County District 03
-  County District 04
-  County District 05
-  County Boundaries
- Schools/Libraries**
-  School Buildings (Various)
-  School Library
-  Public Library
-  Special Library
-  DOE School Districts
-  DOE VoTech School Districts
- Hydrology**
-  Streams / Rivers
-  Lakes, Ponds, Bays
- Flood Zones**
-  0.2% Annual Chance Flood Hazard
-  A
-  AE
-  AO
-  Open Water
-  VE
-  Public Protected Lands
-  Municipalities
-  Communities
-  Boundaries State County

Sussex County, Sussex County Government. Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the G/S User Community









☐ Boundaries State County

A horizontal graphic scale bar with alternating black and white segments. Above the bar, numerical values are marked at intervals: 0, 155, 310, 620, 930, and 1,240. The unit 'Feet' is written at the right end of the bar.



**Introduced 07/18/17**

**Council District No. 3 – Burton  
Tax I.D. No. 235-30.00-103.09  
911 Address: 20132 Doddtown Road, Harbeson**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS**

**WHEREAS, on the 12th day of June 2017, a conditional use application, denominated Conditional Use No. 2105, was filed on behalf of Thomas R. Engel; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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. 2105 be \_\_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_\_ 2017, 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. 2105 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 Broadkill Hundred, Sussex County, Delaware, and lying on the northwest side of Doddtown Road, approximately 1,600 feet southwest of Harbeson Road (Route 5), and being more particularly described per the attached deed prepared by Baird Mandalas Brockstedt, LLC, said parcel containing 25.156 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.**



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**Sussex County**

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## Memorandum

To: Sussex County Council Members

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 18, 2017

RE: County Council Report for Ordinance regarding Special Events

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The Planning and Zoning Commission held a public hearing on October 26, 2017 regarding a proposed Ordinance to amend Special Events. The following are the minutes and motion for the proposed changes to the Zoning Code from the Planning and Zoning Commission meeting.

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

Mr. Robertson stated that there are currently two separate parts of the Code that address special uses/events; that there is Section 115 in the AR-1 Section 115-23 which deals with Special Use Exception; that the Planning and Zoning would not see those because they go to the Board of Adjustment (BOA); that in 115-23 reads, "tents for special purposes for a period exceeding 3 days. The Director may, without requiring an application for a special use exception, grant approval for a tent for a special purpose (revival, reception, tent sale, as an accessory to a business or commercial use, or other similar activities). If approved by the Director, a tent for special purposes may be utilized on a parcel no more than three times in a calendar year." That it is limited to tented events, although it has evolved to include tent-like advertising such as large blow-ups; that it is less than three day, the Director can approve it; that more than three days, you have to go to the BOA, which requires a full application, a hearing, application fees, and time involved getting on the agenda for the BOA; that if approved, there is a three event limit in this section; that also in the past, it is the understanding that the Director and staff try to require set up and tear down to occur within the three days, although there were some reasonable accommodations; that this is not stated in the Code either way; that there is also a in Section AR-1 that talks about Conditional Uses; that it says "Special events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/ walks or any other special event or mass gathering being held outdoors or without a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. Special events as defined herein, with a duration not exceeding three days, are not subject to the Conditional Use process. Upon receipt of an application,



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the Director or his/her designee may grant approval of a special event not exceeding three days. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”; that if less than three days, the Director can approve administratively; that if more than three days, the applicant needs to seek a Conditional Use, which requires public hearings before both the Planning and Zoning Commission and County Council; that there is no limit on the number of times a three day event could occur on a property, although the County has historically looked to the tent ordinance for guidance and also applied the three event limit, until recently when the County looked to accommodate some events; that there is also no indication of whether set-up and tear down is part of the three days; that there is no guidance given to the County to decide whether to approve or deny any event less than three days unlike the tent policy; that this is not available currently in all districts, that is only stated in AR-1, GR, B-1, C-1, CR-1 and M Districts; that theoretically, some could request three day events every weekend on a property and there would not be any guidance or clear basis whether to approve or deny them; that that gave rise to the thought – at what point is an event no longer “special” and occurring so much that it requires some other level of approval; that the Code did not give any guidance on that question; that the Goals of this Ordinance; that first, as you know, no part of this Ordinance is set in stone’ that they don’t believe County Council intended it to be that way; that after the public hearings, changes/improvements to it are certainly likely and expected; that they looked at all sorts of other jurisdictions – urban, suburban and rural; that they are all over the place in how they treat special events – from near prohibition to lots of red tape; that they have many different limitations or descriptions of what is permitted, with different durations; that some have minimum parcel size requirements and some require fees; that staff tried to keep it simple and close to what we have now; that it does not apply to anything in any town; that there are no fees associated with the application, unless it is for greater than three days (either BOA or CU depending on type); that it is not intended to put a stop to any events. Instead, give better guidance to the public, applicants and the County on the process, contrary to the vague ordinances we have now; that it clarifies our Code to state that these permitted events (less than three days) fall within the “Permitted Uses” section of various districts in the Code. Right now, it is all within CU section of Code, even if you are less than three days and can be permitted by the Director; that it clears up that set up and tear-down are not counted against the event days; that if the event is denied by the Director, you can always appeal that decision to the BOA. That is a right that any aggrieved party has with regard to any decision of the Director under Title 9 and the zoning code; that does not create any new rules or, if it is denied, you can seek a CU, which is what the Code currently states; that the criteria the Director must consider under the proposed Ordinance (all considerations that the County has historically looked at, but never codified anywhere): the number of participants, size of the parcel, parking needs, roads/traffic patterns, prior events, conducted by the applicant, noise, light, odor and dust, proposed hours of operation; that there are some variables within the proposed Ordinance to consider: how many events are appropriate on a parcel in a given year, how many days should each event last? (introduced Ordinance says you get three days of events, whether it is one three-day event, or three one day events), not stated in the Ordinance, but could be considered – some exemption based on the number of participants or size or both or percentage, and an application form; and that if the Ordinance gets adopted and it is finalized, there would be an application form that everyone would use; that they would understand what the criteria are when they apply.

Ms. Cornwell stated that there were three letters in opposition; that one would actually like to address noise and reduce the number the number of events allowed; and that they would like some revisions to the proposed Ordinance.

The Commission found that Joanne and Roger White, Christian Hudson, John Paradee, Tommy Cooper, Judy Mangini, Lynn Brannon, Natasha Norwood Carmine, Ben Jones, Jen Rowan, Pat



Martin, Lindsey Tobin, Gail Elliott, Sarah Lancaster, Bea Hickey, Scott Dailey, Kevin Burdette, DJ Hughes, Tom Colucci, Steven Spence, Ryan Moore, Matt Windsor, Alana Keely, Chris Weeks, Tim Van Bryant, Alex Pires, William Lankford, and Peter Mercado spoke regarding the ordinance; that they would like some changes to the application; that they would to see an application form to include site plan, a business license, and permits to serve alcohol; that the applicant have a letter of coordination with Police and Fire service for coverage of the event; that a letter be provided for waste services, they have liability insurance for the event; that music/noise should be in a manner consistent with the peace and order of the community; that the special event should be posted on the County website for two weeks to allow for public comment prior to the event approval by the Director; and that they have major concerns with traffic, number of events, and lack of notification; that they have concerns with the noise; that how do you keep young people here and the young people want things to do; that they it takes a lot of time and money for a Conditional Use; that there have not been a lot of approvals and the County has sponsored or held over 300 events; that they do not understand the definitions of events; that there are a lot of illegal events in Sussex County; that there were 56 concerts held in a MR District last year; that they have concerns with events being held at VFW and Fire Halls; that what would or could be exempt; that it is important to have venues for young people; that they have concerns with churches holding events; that a public workshop should take place so they can speak; that they believe that when people come together at local events they gain a sense of belonging that increases their participation in their communities; that the County should collaborate with us in retaining and magnifying the great qualities that make Sussex County a sought after community to call home; that the County needs to keep down the number of regulations; that it is not the number of events, it is that concerts are a separate issue; that because of growth in our population is growing, there is a need for limits, updating old Ordinances; that we need regulations to consider the problems of late hours, loud noise, event lights, traffic congestion, and maximum number of concerts allowed; that zoning is to provide a benefit to the community; that the Ordinance creates more problems than solutions; that it lacks quantitative objectives and measures; that the Ordinance does not provide guidance on how the County is going to monitor these activities; that they have concerns with yard sales; that they recommend to have open workshops or committee to redraft another Ordinance that better addresses the items that they have indicated are important them; that why do parades in town limits need a County permit, a Town permit and a DelDOT permit; that barn wedding parties are not subject to County regulations; that the Government should be careful of writing too complicated Code; that non-profit events should be exempt; that the County needs a public park and recreation field; that safety is needed; that it is difficult to find venues for non-profit events; that they have concerns about youth development; that will this Ordinance force some of these events to end or leave the County; that these events create confident and resilient kids and they provide a family atmosphere that forms close knit communities that support one another; that this could create obstacles to youth development creating a false hope of limiting minor inconveniences between neighbors; that it is their opinion that fences do not make good neighbors and in this case barriers do not make good neighbors but corporation and collaboration between those neighbors is what you are looking for; that you can hear the music because the County is flat; that request of any Ordinance created, the County should abide by it as well; that concerts do not make money; that all liquor sales go charities; that they would like them to use common sense; and that you talk to the non-profit groups.

The Commission discussed the application.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to recommend withdraw and if continue to be done with a public workshop format. Motion carried 5-0.



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 unspecific 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].



NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

**§115-20 Permitted uses.**

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

(13) Special events such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being 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. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

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



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

**§115-22 Conditional uses.**

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

...

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

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

**§115-39 Conditional uses.**

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

...

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



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

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

**§115-69 Permitted uses.**

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

(27) Special events such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being 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. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

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



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

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

**§115-71 Conditional uses.**

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

...

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

...

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

**§115-77 Permitted uses.**

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

...

Schools for industrial training, trade or business

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



mass gathering being 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. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

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

Tourist homes or rooming house

....

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

**§115-79 Conditional uses.**

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



...

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

...

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

**§115-83.2 Permitted uses.**

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

...

Schools for industrial training, trade or business

Special events such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being 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. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

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



where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

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

Tourist homes or rooming house

...

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

**§115-83.5 Conditional uses.**

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

...

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



event not exceeding three days.] Special Events not approved by the Director as a permitted use under §115-20 shall require a conditional use permit. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

...

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

**§115-85 Permitted uses.**

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

...

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

Special events such as circuses, carnivals, midways, promotional and tent sales events; fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering being 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. Such special events may be administratively approved by the Director or his or her designee, when, in his or her judgment, the proposal will not impair the purpose and intent of the zoning ordinance, and when the use is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district, and when the use will not significantly affect the surrounding properties.

In determining whether to administratively approve the special event, the Director or his or her designee shall take into account considerations including (but not limited to) the following: the estimated number of attendees; the size of the parcel where the special event is to be located; the parking requirements of the special event; roads and traffic patterns providing access to the special event; prior events conducted by the applicant; noise, light, odor, and dust generated by the special event; proposed hours of operation and number of consecutive days; and 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, including (but not limited to) hours of the event and maximum attendance. No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each calendar day of a special event shall be counted as a separate special event, not including reasonable time required for set up and removal when the event is not otherwise underway.

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

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

....

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

**§115-87 Conditional uses.**

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

...

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



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

. . .

**Section 12. Effective Date.**

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

**SUMMARY**

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