

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 30, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 30, 2024, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 201 24
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as presented.

Motion Adopted: 5 Yeas

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

Minutes

The minutes from April 16, 2024, were approved by consensus.

**Correspond-
ence**

Mr. Moore reported that there was one letter received from Dry Dock Recovery thanking Council for their donation for a new HVAC system.

Mr. Schaeffer introduced Norman Jay Jones, Clerk of the Peace.

**Public
Comments**

There were no public comments.

**M 202 24
Approve
Consent
Agenda**

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

**Use of Existing Wastewater Infrastructure Agreement – IUA-1140
Cattail Villas, West Rehoboth Area**

**Use of Existing Wastewater Infrastructure Agreement- IUA-18 02 352
Atlantic Auto Repair & Summer Salts 2, Millville Area**

**M 202 24
Approve
Consent
Agenda
(continued)**

Proclamation Request – National Safe Boating Week

Motion Adopted: 5 Yeas

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

**Adminis-
trator’s
Report**

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

1. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for March 2024 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 190 troopers assigned to Sussex County for the month of March.

2. Sussex County Council FY 2025 Budget Workshop

On Tuesday, May 7th, the Sussex County Council will meet for its annual budget workshop. The Fiscal Year 2025 Budget Workshop will be held at 9:00 a.m. at the Sussex County Emergency Operations Center. Sussex County Council will hold an afternoon session following the budget workshop at 1:30 p.m. in County Council chambers. The next regularly scheduled Council meeting will be held on Tuesday, May 14th, at 10:00 a.m.

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

**1st Quarter
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director reported that there were 36 submissions received with nine winners being selected for the First Quarter Employee recognition awards. This quarter winners were Maria Pena Suarez from the Marriage Bureau, Dave Elliott, Nathan Hotsko and Bryan Murray from Facilities Management and Jennifer Norwood, Christin Scott, Michael Lowery, Lauren Devore, and Ann Lepore from the Planning & Zoning department.

**Proposed
Personnel
Ordinance**

Karen Brewington, Humans Resources Director presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 29, ARTICLE I., § 29-3B. (1) OF THE CODE OF SUSSEX COUNTY TO ELIMINATE THE POSITIONS OF DEPARTMENT HEAD OF EMERGENCY OPERATIONS AND DEPARTMENT HEAD OF EMERGENCY MEDICAL SERVICES, AND TO CREATE THE NEW POSITION OF DEPARTMENT HEAD OF PUBLIC SAFETY” for

Council's consideration.

Introduction of Proposed Ordinance Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29, ARTICLE I., § 29-3B. (1) OF THE CODE OF SUSSEX COUNTY TO ELIMINATE THE POSITIONS OF DEPARTMENT HEAD OF EMERGENCY OPERATIONS AND DEPARTMENT HEAD OF EMERGENCY MEDICAL SERVICES, AND TO CREATE THE NEW POSITION OF DEPARTMENT HEAD OF PUBLIC SAFETY".

Proposed Ordinance/ Warwick Park Phase I Hans Medlarz, County Engineer, Ret. presented a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,225,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE I PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH" for Council's consideration.

Introduction of Proposed Ordinance Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,225,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WARWICK PARK PHASE I PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Cannon Road/CO No. 5 Hans Medlarz, County Engineer, Ret. presented change order no. 5 for Cannon Road – Inland Bays Road Drainage Improvements and Constructed Wetlands for Council's consideration.

M 203 24 Approve CO No. 5/ Cannon Road A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 5A and 5B for contract S22-05, Cannon Road/Inland Bays Road Drainage Improvements and constructed wetlands, be approved, increasing the contract amount by a not to exceed amount of \$11,400.00 and \$138,576.08, respectively.

Motion Adopted: 5 Yeas

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

Long Neck Communi-ties Hans Medlarz, County Engineer, Ret. presented change order no. 2 for Long Neck Communities for Council's consideration.

M 204 24 Approve CO No. 2/Long Neck Communi- A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 2 for contract S21-10, Long Neck Communities, be approved, for a non-compensatory time extension of 120 calendar days, contingent upon SRF concurrence.

- ties** **Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea
- Joy Beach** **Hans Medlarz, County Engineer, Ret. presented change order no. 2 for Joy**
CO No. 2 **Beach sewer expansion, phase I for Council’s consideration.**
- M 205 24** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it**
Approve CO **moved based upon the recommendation of the Sussex County Engineering**
No. 2/Joy **Department that change order no. 2 for contract S20-12, Joy Beach sewer**
Beach **expansion, be approved, for a non-compensatory time extension of 226**
 calendar days total and a non-compensatory 90 calendar days contract
 suspension for the summer months, contingent upon SRF concurrence.
- Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea
- Wolfe Neck** **Hans Medlarz, County Engineer, Ret. presented a recommendation to**
Regional **award for electrical construction and a recommendation to reject bids for**
WWF **general construction for Wolfe Neck Regional WWF electrical service &**
 switchgear replacement for Council’s consideration.
- M 206 24** **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer that be it**
Approve **moved based upon the recommendation of the Sussex County Engineering**
Electrical **Department that contract S24-09, Wolfe Neck Regional wastewater facility**
Construct- **electrical service & switchgear replacement – electrical construction, be**
ion/Wolfe **awarded to BW Electric, Inc., for their total bid amount of \$5,000,000.00.**
Neck
- Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea
- M 207 24** **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it**
Reject **moved based upon the recommendation of the Sussex County Engineering**
General **and Finance Departments that the sole bid for contract S24-10, Wolfe Neck**
Construc- **regional wastewater facility electrical service & switchgear replacement –**
tion **general construction, be rejected and to approve the solicitation of three**
Bids/Wolfe **proposals under an alternate delivery method.**
Neck
- Motion Adopted: 5 Yeas**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Old
Business/
CZ1992**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” filed on behalf of Reed Properties, LLC.

The County Council held a Public Hearing on the application at its meeting of February 20, 2024. At the conclusion of the Public Hearing action on the application was deferred for further consideration.

**M 208 24
Adopt
Ordinance
No. 3001/
CZ1992**

A Motion was made by Mrs. Green, seconded by Mr. Schaeffer to Adopt Ordinance No. 3001 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.**
- 2. The Applicant’s property is 2.99 acres that is currently zoned AR-1 along Route 16 at the intersection with Route 30. Both of these roads are identified as “Major Collector” roads by DelDOT, and Route 30 is designated as a Truck Route by DelDOT. This intersection is an appropriate location for C-2 Zoning.**
- 3. The property is adjacent to property that is zoned C-1 and used in an industrial manner. It is approximately one mile from the Milton town limits. To the east on the opposite side of Route 30, the properties are zoned C-1, HR, and AR-1. Although the Applicant’s remaining land to the south is zoned AR-1, beyond that is a large parcel of land with rail service that is zoned HI-1 and contains a bulk-fuel plant, gasoline and diesel sales, and propane storage tanks. Across Route 16 is a 500-acre parcel that serves as part of the wastewater disposal area for Artesian Wastewater Management’s Sussex Regional Reclamation Facility. This is an appropriate location for C-2 zoning.**
- 4. The site is served by both central water and central sewer.**
- 5. C-2 Zoning at this location at this intersection will benefit nearby residents of Sussex County by providing a convenient location for the uses permitted in that Zone.**
- 6. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.**
- 7. The site is in the “Low Density Area” according to the Sussex County**

M 208 24 **Land Use Plan and Future Land Use Map. C-2 Zoning is appropriate in the Low-Density Area according to the Plan.**
Adopt **8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.**
Ordinance **9. No parties appeared in opposition to the rezoning application.**
No. 3001/ **10. Any future use of the property will be subject to Site Plan review by the**
CZ1992 **Sussex County Planning and Zoning Commission.**
(continued) **11. For all of these reasons, the C-2 Zoning District is appropriate for this location.**

Motion Adopted: 5 Yeas

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

Grant
Requests **Mrs. Jennings presented grant requests for Council's consideration.**

M 209 24 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give**
City of **\$2,500 (\$2,500 from Mr. Vincent's Councilmanic Grant Account) to the**
Seaford **City of Seaford for their Kiwanis Park Memorial renovation.**

Motion Adopted: 5 Yeas

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

M 210 24 **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500**
Champions **(\$1,500 from Mrs. Green's Councilmanic Grant Account) to Champions for**
for **Children's Mental Health, Inc. for their Community Resource and Training**
Children's **Center.**
Mental

Health, Inc. **Motion Adopted: 5 Yeas**

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

M 211 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give**
Town of **\$1,500 (\$1,500 from Mr. Vincent's Councilmanic Grant Account) to the**
Laurel **Town of Laurel for 4th of July fireworks display.**

Motion Adopted: 5 Yeas

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

**M 212 24
Childrens
Beach
House, Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$5,000 (\$1,000 from Mr. Schaeffer’s Councilmanic Grant Account, \$2,500 from Countywide Youth Grant, \$500 from Mr. Vincent’s Councilmanic Grant Account and \$1,000 Mr. Hudson’s Councilmanic Grant Account) to Childrens Beach House, Inc. for their Youth Development program.

Motion Adopted: 5 Yeas

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

**Proposed
Ordinance
Introducti-
ons**

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRE, MORE OR LESS” filed on behalf of Play It Safe, LLC.

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A 5.00 ACRE PORTION, MORE OR LESS, OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.12 ACRES, MORE OR LESS” filed on behalf of Chickberry Farms Events, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

**CC Member
Comments**

There were no Council Member comments.

**M 213 24
Go Into
Executive
Session**

At 10:38 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to go into Executive Session for the purpose of discussing matters related to land acquisition, personnel & job applicants’ qualifications.

Motion Adopted: 5 Yeas

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

**Executive
Session**

At 10:42 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition, personnel & job applicants’ qualifications. The Executive Session concluded at 11:54 a.m.

**M 214 24
Reconvene**

At 11:58 a.m., a Motion was made by Mr. Hudson, seconded Mr. Schaeffer to come out of Executive Session back into Regular Session.

Motion Adopted: 5 Yeas

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

E/S Action There was no action related to Executive Session matters.

**M 215 24 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to go until
Recess recess until 1:30 p.m. Public Hearings.**

Motion Adopted: 5 Yeas

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

**M 216 24 At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr.
Reconvene Schaeffer to reconvene.**

Motion Adopted: 5 Yeas

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

Rules Mr. Moore read the rules and procedures for public hearings.

**Public Hearing/
CU2430 A Public Hearing was held on a Proposed Ordinance entitled “AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO
REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF
LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX
COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS” (property
lying on the northeast side of the intersection of Armory Road [Rt. 20]
and Murray Road [S.C.R. 355]) (911 Address: 30465 Armory Road,
Frankford) (Tax Map Parcel: 433-1.00-7.00) filed on behalf of Mark
Baull.**

**The Planning & Zoning Commission held a Public Hearing on the
application on March 20, 2024. At the meeting of April 10, 2024, the
Planning & Zoning Commission recommended approval of the
application for the 5 reasons stated and subject to the 13 recommended
conditions as outlined.**

**The Council found that Mr. Mark Baull, Applicant, spoke on behalf his
Application. Mr. Baull stated that the Conditional Use Application is for
an auto repair shop; that his intention is to do minor auto repair work;**

**Public
Hearing/
CU2430
(continued)**

that there is a 30x40 building already on the site; that he will not be making any modifications; that the recommended conditions from the Planning & Zoning Commission were reviewed; that hours would be Monday through Friday 8:00 a.m. until 5:00 p.m.

There were no public comments.

The Public Hearing and public record were closed.

**M 217 24
Adopt
Ordinance
No. 3002/
CU2430**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Ordinance No. 3002 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.045 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The site is located in the Coastal Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
3. The Applicant lives on the site and the repairs will occur inside of a separate building on the site. The Applicant intends to keep the residential appearance of the property.
4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - a. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - b. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - c. All repairs shall be performed indoors. No automobile parts shall be stored outside, and aside from vehicles with a current registration in the Applicant's name, no more than 10 cars shall be parked on the site.
 - d. No junked, unregistered or permanently inoperable vehicles or trailers shall be parked or stored on the site.
 - e. There shall not be any parking in the front yard setback.
 - f. The parking areas shall be shown on the Final Site Plan and

**M 217 24
Adopt
Ordinance
No. 3002/
CU2430
(continued)**

- clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
- g. No cars shall be sold on the property.**
 - h. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
 - i. The site shall be subject to all DelDOT entrance and roadway requirements.**
 - j. The hours of operation shall be 8:00 a.m. through 5:00 p.m., Monday through Friday. There shall not be any Saturday or Sunday hours.**
 - k. This conditional use is on a property that is more than 2 acres in size and not all of it is intended to be used as part of the Applicant’s business. Therefore, the Final Site Plan shall clearly show the area of the Conditional Use and the remaining area of the property that is not part of the Conditional Use.**
 - l. Any violation of these conditions may be grounds for termination of this conditional use.**
 - m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**Public
Hearing/
CZ2013**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.92 ACRES, MORE OR LESS” (property lying on the east side of Sussex Highway [Rt. 13], approximately 650 ft. south of Iron Hill Road [S.C.R. 454A]) (911 Address: 36671 Sussex Highway, Delmar) (Tax Map Parcel: 532-13.00-84.00 [p/o]) filed on behalf of 4 Points Towing & Roadside, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on March 20, 2024. At the meeting of April 10, 2024, the Planning & Zoning Commission recommended approval of the application for the 5 reasons as outlined.

The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Applicants; that also present was Mr. Doug Barry, with Pennoni Engineering. Mr. Hutt stated that the Application is a request to change the zone of a portion of their parcel from AR-1

**Public
Hearing/
CZ2013
(continued)**

(Agricultural Residential) and C-1 (General Commercial) to C-3 (Heavy Commercial); that the parcel is 11.92 acres; that the application relates to the rear 10 acres as the front 1.6 acres are already zoned C-1; that the business is located within the busy industrial commercial and business corridor that exists on Sussex Highway; that if you drive south towards the DE/MD border, you would see a number of businesses and employers on both sides of Route 13; that this property is located on the eastern side of Route 13; that the Applicant bought the business in 2022; that the business provides towing, roadside assistance, and auto repair; that they have two locations, one being located in Camden, within Kent County and a location in Delmar, within Sussex County; that in 1969, CU538 was approved by County Council for this property to have a manufactured home as a model; that through Ordinance No. 788, the front portion of the property was rezoned in 1991; that the original conditional use Findings of Fact show that the site had been the subject of commercial and heavy industrial, non-conforming uses since 1959; that County Council adopted Ordinance No. 788 and that changed the designation of that front portion of the property approximately 1.6 acres from AR-1 (Agricultural Residential) to C-1 (General Commercial), which is no longer available to be assigned to a property; that when the Applicants purchased the property the conditional use that was already in place was limited to a small amount of square feet; that there is almost 12 acres in total that the Applicant's would like to utilize; that the Applicant's would like to keep the business primarily in the front where it currently is and utilize the rear for a self-storage area; that the surrounding areas of this property are industrial zoning and C-1 (General Commercial) which fits in with the plan for this site and the property lies within Investment Level 3 of the 2020 State Strategies Map, which is known as an area where growth is anticipated; that in Chapter 4 of the Comprehensive Plan, it discusses the basis of designating an area as a growth area; that the fourth bullet point states that the purpose of the Future Land Use Plan is to encourage tourism and other responsible commercial and industrial job providers to locate and invest in the County; that Route 13 is a place where you think of commercial and industrial job providers being located; that the developing area is described as a growth area where in selected areas and at appropriate intersections, commercial uses should be allowed, portions of the developing areas with good road access and few nearby homes should allow for business and industrial parks; that in table 4.5-2 in the Comprehensive Plan, it shows applicable zoning districts; that the C-3 heavy commercial district is an applicable zoning district within the developing area on the Future Land Use Map; that the C-3 zoning district purpose fits this application; that the zoning classifications along Route 13 were shown and discussed; that there are many businesses located along Route 13 in the area of this application; that this property is adjacent to the town boundary of Delmar; that the Town of Delmar Future Land Use Map has this area shaded in purple which is known as the employment/industrial office area; that on the County Zoning map, Old Stage Road is zoned for highway and regional commercial in the Town of Delmar; that if you travel north on Old State

**Public
Hearing/
CZ2013
(continued)**

Road, there is some C-1 zoning that exists; that the property meets the height area bulk requirements found in the Code; that there are no wetlands located on the property that would impact its use, but there are wetlands on the adjacent properties; that there was a formal Wetland Delineation performed as those wetlands run close to the boundary; that there may be buffering that needs to be provided; that the property is not located within a Flood Zone X, which is an area determined to be outside the 500 year floodplain; that there are no Chapter 89 Source Water Protection concerns, as this is not in the Wellhead Protection Area; that the potential for groundwater recharge is good and fair; that water would be provided by an onsite well and sanitary sewer services would be provided by an onsite wastewater treatment and disposal system; that there was a Service Level Evaluation Request (SLER) filed with DelDOT, which did identify the conceptual use of the property as a self-storage facility, and the Applicants have spent the last two years cleaning up the property from what it was, attempting to return it to the nature and character of the area surrounding this property.

Public comments were heard.

Mr. Alan Duncan spoke in opposition of the application; that he is a former employee of 4 Points Towing; that business is about character; that his life was put in danger at the job based on having guns; that he no longer works for them; that having guns on the property shows very little guard for the law and for the fear of his life.

The Public Hearing and public record were closed.

**M 218 24
Adopt
Ordinance
No. 3003/
CZ2013**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt Ordinance No. 3003 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.92 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

1. The entire property currently has two zoning designations. The area of the property that fronts along Route 13 is zoned C-1 while the remainder of the property to the rear is zoned AR-1. The Applicant seeks to convert the AR-1 area to the C-3 Zoning District.
2. This entire parcel has a history of commercial uses. In 1969, a conditional use was issued to allow the placement of a manufactured home on the property for use as a model home. Then in 1991 by C/U #981 and Ordinance #789, the site was approved for use as a truck and auto salvage yard. The Applicant has performed a substantial cleanup of the site from its prior use as a salvage yard. The C-3 zoning for the rear portion of the property is consistent with the prior intensive use of the property.

**M 218 24
Adopt
Ordinance
No. 3003/
CZ2013
(continued)**

- 3. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations. Although a number of uses are permitted, this Applicant intends to use the site for roadside services and auto repair.**
- 4. This property has frontage along Route 13. Route 13 is considered to be a Major Arterial Roadway according to DelDOT's roadway classification. This is the highest roadway classification issued by DelDOT and it is an appropriate location for C-3 Zoning.**
- 5. The parcel is in an area of Route 13 where there are a variety of zoning districts. This includes HI-1, C-1, CR-1, C-3 and several residential zoning districts. There are a number of intensive business, commercial, and industrial uses in the area as well. This rezoning is consistent with the surrounding zoning districts and uses.**
- 6. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.**
- 7. The site is basically surrounded by the municipal boundaries of Delmar. Delmar's Future Land Use Map shows this area as an "Employment/Industrial Office" Area. This rezoning is consistent with Delmar's nearby land use designations.**
- 8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
- 9. No parties appeared in opposition to this rezoning application.**
- 10. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

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

**M 219 24
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to adjourn at 2:09 p.m.

Motion Adopted: 5 Yeas

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

Respectfully submitted,

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

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