

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 27, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 27, 2023, at 12:30 p.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 A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 309 23
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, 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 June 20, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

There were no public comments.

**Public
Comments**

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

**M 310 23
Approve
Consent
Agenda**

Proclamation Request - Kitty Cole 100th Birthday

Motion Adopted: 5 Yeas

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

PZ Nominees Discussion Mr. Lawson noted that Planning and Zoning Commission nominees, Gregory Scott Collins and Robert D. Mitchell were interviewed during the June 20, 2023, meeting at which time action was deferred.

M 311 23 Approve PZ Nominee/ Collins A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, that be it moved that Sussex County Council approves the appointment of Mr. Gregory Scott Collins to the Sussex County Planning and Zoning Commission effective July 1, 2023, for a term of three years until such time the term expires in June 2026.

Motion Adopted: 5 Yeas

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

M 312 23 Approve PZ Nominee/ Mitchell/ DENIED A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, that be it moved that Sussex County Council approves the appointment of Mr. Robert Mitchell to the Sussex County Planning and Zoning Commission effective July 1, 2023, for a term of three years until such time the term expires in June 2026.

Motion DENIED: 2 Yeas, 3 Nays

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

Administrator's Report Mr. Lawson read the following information in his Administrator's Report:
1. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Tuesday, July 4th, to observe the Independence Day holiday. The next regularly scheduled Council meeting will be held on Tuesday, July 11th at 10:00 a.m.

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

Motion Adopted: 5 Yeas

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

Comprehensive Land Jamie Whitehouse, Planning and Zoning Director presented the annual update to the Office of State Planning and Coordination on the

Use Plan Annual Report **Comprehensive Plan.** The Comprehensive Plan was completed by the County in 2018 and at the end of June each year, the staff prepares a report to the Governor's Advisory Council on Planning.

Mr. Whitehouse reviewed new initiatives that were implemented in the last year that were included in the report for the time frame of July 1, 2022, through the end of June.

(The full report was included in the Council packets for this meeting.)

M 313 23 Approve Comprehensive Plan Land Use annual Report A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that the Sussex County Council approves the report to the Governor's Advisory Council on Planning for the period 2022-2023.

Motion Adopted: 5 Yeas

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

Mulberry Knoll/CO No. 2 Hans Medlarz, County Engineer presented change order no. 2 for Mulberry Knoll sewer collection, project S20-22 for Council's consideration. Mr. Medlarz reported that the change order was developed for final balancing of the project cost.

M 314 32 CO No. 2/ Mulberry Knoll 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. 2 for contract S20-22, Mulberry Knoll sewer collection system, be approved, for an increase of \$33,271.56, 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

WSUSD/Recommendation to Award Hans Medlarz, County Engineer presented a recommendation to award Western Sussex Unified Sewer District, Contract 5A, project S19-29 for Council's consideration. Mr. Medlarz reported that the recommendation is to award Contract 5A to Hopkins Construction, Inc.

M 315 23 Approve WSUSD Contract 5A A Motion was made by Mrs. Green, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department that contract S19-29 for the Western Sussex Unified Sewer District, contract 5A, be awarded to Hopkins Construction for their total bid of \$786,810.00, contingent upon DNREC approval.

Motion Adopted: 5 Yeas

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

**SCUSD
Chapel
Green**

Hans Medlarz, County Engineer presented change order nos. 1 and 2 and a substantial completion request for Sussex County Unified Sanitary Sewer District Chapel Green, Conley's Chapel Village & Wil King Road South Area, project S20-16 for Council's consideration.

**M 316 23
Approve CO
Nos. 1 & 2 &
Substantial
Completion**

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 nos. 1 and 2 for contract S20-16, Chapel Green, Conely's Chapel Village & WIL King Road South area, be approved, for an increase in the amount of \$44,955.00, a decrease of \$80,941.90 and that substantial completion be granted effective May 5, 2023 with any held retainage released in accordance with contract documents.

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/
CU2349**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS" (property lying on the northwest side and the southeast side of Oak Orchard Road [Rt. 5], approximately 300 feet east of River Road [S.C.R. 312]) (911 Address: 32768 Oak Orchard Road, Millsboro) (Tax Parcel: 234-35.09-6.00)

The County Council held a Public Hearing on the application at its meeting of April 18, 2023. At the conclusion of the Public Hearing, the record was left open until May 2nd, to allow for additional time for the public to submit additional comments. At the meeting of May 2nd, Council closed the record and action was deferred on the application for further consideration.

**M 317 23
Amend
Condition D
CU2349**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to amend Condition D, to add the following: The Final Site Plan shall include the location of a privacy fence to be installed on three sides of the green space and stormwater management area located to the north of the parking lot as illustrated in the Applicant's rendering entitled "Drawing No. 1, Project No. 2039A002.C01" and dated March 2023.

Motion Adopted: 5 Yeas

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

M 318 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to amend
Amend Condition K to add the following: No Certificate of Occupancy shall be
Condition K issued until the properties associated bulkhead and dock are repaired and
CU2349 said repairs are approved by DNREC.

Motion Adopted: 5 Yeas

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

M 319 23 A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt
Adopt Ordinance No. 2934 entitled "AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY
No. 2934 / RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE
CU2349 LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84
ACRE, MORE OR LESS" for the reasons and conditions given by the
Planning and Zoning Commission as follows and as amended:

1. This application seeks the approval of ten (10) multi-family structures on approximately .84 acres of land. The land is actually separated by a roadway historically used by residents and visitors to the Oak Orchard Area. 10 units is simply too much density on this unusually shaped, small parcel of land that is divided by the roadway. While the roadway splitting the land is not State-owned, the record shows that it has historically been used as a public roadway, and it is the only means of access for several nearby properties.
2. The small roads and tightly packed properties in this area of Oak Orchard cannot support 10 new multi-family units on this site. There was testimony in the record that the required parking alone would adversely affect the neighboring and adjacent properties by squeezing the necessary parking spaces among the adjacent small residential properties.
3. Six new multifamily units in this location will not overburden this property and the area, including nearby roadways. Six units is an appropriate density, and they will improve and redevelop a property that has deteriorated over the years.
4. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that "a range of housing types" are acceptable here, including medium and high densities when a site is near commercial areas, is served by central

**M 319 23
Adopt
Ordinance
No. 2934 /
CU2349
(continued)**

- water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.
5. As part of this approval, the issue of access to the roadway connecting the two ends of Oak Orchard Road across this property will be resolved by a dedication of the roadway to public use.
 6. With this six-unit limitation, the proposed development will not have an adverse impact on the neighboring properties or community.
 7. With the six units, the project will not have an adverse impact upon traffic or roadways.
 8. The development will be served by central sewer provided by Sussex County.
 9. The development will be served by central water.
 10. This recommendation is subject to the following conditions:
 - a. The maximum number of residential units shall be six (6).
 - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the project's stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.
 - c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer as required by DelDOT.
 - d. The Final Site Plan shall dedicate the roadway across this site connecting the two ends of Oak Orchard Road to public use. The Final Site Plan shall include the location of a privacy fence to be installed on three sides of the green space and stormwater management area located to the north of the parking lot as illustrated in the Applicant's rendering entitled "Drawing No. 1, Project No. 2039A002.C01" and dated March 2023.
 - e. At least one parking space for each unit shall be located on the riverside portion of the property, whether enclosed in a garage or under the building, or in a driveway or outdoor parking area. None of the parking shall be located within a setback area.
 - f. The trash receptacles shall be standard roll-out residential containers assigned to the six (6) units. They shall be stored in an enclosed area on the area of this site where the building is located. No dumpster shall be permitted.
 - g. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - h. The project shall be served by central water to provide drinking water and fire protection.
 - i. Construction activities, including site work and deliveries, shall only occur between 7:30 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during

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Adopt
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CU2349
(continued)**

- construction.
- j. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - k. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan. No Certificate of Occupancy shall be issued until the properties associated bulkhead and dock are repaired and said repairs are approved by DNREC.
 - l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas

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

**Old
Business/
CU2346**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01” (properties located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

The County Council held a Public Hearing on the application at its meeting of February 28, 2023. At the conclusion of the Public Hearing, Council deferred action on the application, holding the record open to receive PLUS comments from the State of Delaware. At the County Council meeting of May 9, 2023, the PLUS comments were reported, and the record was closed. At that time, action was deferred for further consideration.

**M 320 23
Adopt
Ordinance
2935/Ord.
No. 22-07**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2935 entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01” for the reasons given by the Planning and Zoning Commission as follows:

1. The parcel is currently designated as the Commercial Area according to the Future Land Use Map. This application seeks to convert the property to the “Developing Area” designation.
2. The Developing Area and Commercial Area are both “Growth Areas” according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.

**M 320 23
Adopt
Ordinance
2935/Ord.
No. 22-07
(continued)**

3. **The parcel has frontage on Route 9, which is an appropriate location for the Developing Area designation.**
4. **Although the site was originally given the Commercial Area designation in the Comprehensive Plan due to its proximity to the railroad, the County Industrial Park, Route 9, and Sports at the Beach, there has not been any movement to develop it commercially. The Developing Area designation is equally appropriate, since it will permit the property to be residentially developed at a location that is in close proximity to the Town of Georgetown and the employment opportunities and commercial uses.**
5. **This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.**
6. **There is central sewer and water available to the property.**
7. **No parties appeared in opposition to this Map Amendment.**
8. **This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.**

Motion Adopted: 4 Yeas, 1 Nay

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

**Old
Business/
CU2369**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” (properties are located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

The County Council held a Public Hearing on the application at its meeting of February 28, 2023. At the conclusion of the Public Hearing, Council deferred action on the application and left the record open to receive PLUS comments for Ordinance No. 22-07, which is a separate Ordinance that relates to these parcels. At the County Council meeting of May 9, 2023, the PLUS comments were reported for Ordinance No. 22-07 and the record was closed for that Ordinance.

**M 321 23
Adopt
Ordinance**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Ordinance No. 2936 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL

**No. 2936/
CU2369**

RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The property is zoned AR-1 Agricultural Residential. The property is in the vicinity of the Town of Georgetown, other residential developments, schools, commercial uses and a large sports complex. This is an appropriate location for this Conditional Use.**
- 2. The Applicant seeks approval of duplex-style multi-family structures. The Comprehensive Plan states that this type of development is appropriate in areas near main roadways, near commercial areas and employment centers, and with central water and sewer. All of the considerations are satisfied here. This use is also consistent with the Town of Georgetown’s 2021 Comprehensive Plan.**
- 3. The proposed development will have no more than 106 homes on 50.80 acres. The Applicant will be required to contribute bonus density funds for each unit above the base density of two units per acre.**
- 4. The County Engineering Department has indicated that adequate wastewater capacity is available for this site. Central water will also be provided.**
- 5. DelDOT has determined that the project will have a minor impact upon area roadways.**
- 6. The Applicant is providing a buffer of at least thirty feet from all non-tidal wetlands and the development will include approximately 35.98 acres of open space, which represents approximately 70% of the site.**
- 7. The project will not adversely affect the neighborhood or surrounding community. There are existing land uses in the immediate area with similar or more intensive characteristics.**
- 8. The Commission has recommended that the Future Land Use Map for this property be changed from Commercial Area designation to a Developing Area designation. Development such as this Multifamily Conditional Use is appropriate in the Developing Area according to the Plan.**
- 9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.**
- 10. With the conditions and stipulations placed upon it, this residential Conditional Use is appropriate for this location.**
- 11. This recommendation is subject to the following conditions:**
 - a. There shall be no more than 106 dwelling units within this project. The Applicant shall be required to pay the bonus density fee for each unit that exceeds two (2) units per acre as required by Section 115-25 of the Sussex County Zoning Code.**
 - b. The Applicant shall comply with the requirements of Section 115-22**

**M 321 23
Adopt
Ordinance
No. 2936/
CU2369
(continued)**

- “Conditional Uses” regarding a multifamily conditional use in the AR-1 Zoning District.**
- c. A condominium association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas.**
 - d. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
 - e. The development shall be served by Sussex County sewer and comply with all requirements of the County Engineering Department.**
 - f. The development shall be served by central water.**
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
 - h. Interior street design shall comply with or exceed Sussex County standards. Sidewalks shall be installed on both sides of the interior streets. All streetlighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
 - i. All recreational amenities shall be shown on the Final Site Plan. They shall be open for use prior to the issuance of the 30th duplex building permit or the 60th unit.**
 - j. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation where it is currently present in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior edge of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.**
 - k. As proffered by the Applicant, there shall be a minimum setback from nontidal wetlands of at least 30 feet. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited unless indicated on the Final Site Plan. All silt fencing shall be located along the interior limit of this buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of buffer area except as noted on the Final Site Plan.**
 - l. If requested by the local school district, a school bus stop shall be provided by the entrance to the development. The location of the bus stop area shall be shown on the Final Site Plan.**
 - m. Road naming and addressing shall be subject to the review and approval of Sussex County Geographic Information Office.**
 - n. The Final Site Plan shall contain the approval of the Sussex**

**M 321 23
Adopt
Ordinance
No. 2936/
CU2369
(continued)**

- Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- o. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site.**
 - p. Given the proximity to the nearby airport, the Applicant shall comply with all applicable requirements of the Federal Aviation Administration regarding the development, construction, and use of the project.**
 - q. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.**
 - r. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during constructions.**
 - s. The Final Site Plan shall be subject to the review & approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay

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

**M 322 23
Harry K
Foundation**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$6,050 (\$500 from Mr. Schaeffer’s Councilmanic Grant Account, \$3,050 from Mr. Vincent’s Councilmanic Grant Account, \$500 from Mr. Rieley’s Councilmanic Grant Account and \$2,000 from Mr. Hudson’s Councilmanic Grant Account) to Harry K Foundation for their Desert Oasis Feeding Program.

Motion Adopted: 5 Yeas

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

**M 323 23
Make-A-
Wish**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$8,874 (\$4,442 from Mr. Vincent’s Councilmanic Grant Account, \$1,200 from Mr. Hudson’s Councilmanic Grant Account, \$2,332 from Countywide Youth Grant Account, \$650 from Mrs. Green’s Councilmanic Grant Account and \$250 from Mr. Schaeffer’s Councilmanic Grant Account) to Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for wishes for children with critical illnesses.

Motion Adopted: 5 Yeas

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

M 324 23 A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give
Nanticoke \$8,125 (\$7,500 from Mr. Hudson's Councilmanic Grant Account, \$250 from
Indian Mr. Schaeffer's Councilmanic Grant Account and \$375 from Mr. Rieley's
Association, Councilmanic Grant Account) to Nanticoke Indian Association, Inc. for
Inc. their 45th Annual Indian Powwow.

Motion Adopted: 5 Yeas

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

Introduction Mr. Vincent introduced a Proposed Ordinance entitled "AN ORDINANCE
of Proposed TO GRANT A CONDITIONAL USE OF LAND IN AN GR GENERAL
Ordinances RESIDENTIAL DISTRICT FOR A CAR DEALERSHIP TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06
ACRES MORE OR LESS" filed on behalf of Efren Fernando Acevedo

Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM
ON A 42.74 ACRE, PORTION, MORE OR LESS, OF A CERTAIN
PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK
HUNDRED, SUSSEX COUNTY, CONTAINING 93.66 ACRES, MORE
OR LESS" filed on behalf of Rifle Range Road Solar, 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 EVENTS
VENUE TO BE LOCATED ON A CERTAIN PARCELOF LAND LYING
AND BEING IN LITTLE CREEKHUNDRED, SUSSEX COUNTY,
CONTAINING 8.45 ACRES, MORE OR LESS" filed on behalf of Sarah
Peterson

The Proposed Ordinances will be advertised for a Public Hearing.

Council Mr. Vincent commented about the list of priorities that was completed
Member and provided by Council in January and asked for an update to be given
Comments in July.

M 325 23 At 1:15 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley
Go into to recess the Regular Session, and go into Executive Session to discuss
Executive matters relating to land acquisition.

Session	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 1:18 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 1:38 p.m.
M 326 23 Reconvene	At 1:43 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the 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 relating to Executive Session matters.
Rules	Mr. Moore read the rules and procedures for public hearings.
Public Hearing/ CZ1981	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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS” (property lying on the southwest side of Sam Lucas Road [S.C.R. 256], approximately 0.55 mile north of Harbeson Road [Rt. 5]) (911 Address: 16394 Sam Lucas Road, Milton) (Tax Map Parcel: 235-21.00-5.00) filed on behalf of Luke Neiswander
	The Planning & Zoning Commission held a Public Hearing on the application on May 25, 2023. At the meeting of May 25, 2023, the Planning & Zoning Commission recommended approval of the application for the 5 reasons as outlined.
	Jamie Whitehouse, Planning and Zoning Director presented the application.
	The Council found that Mr. Luke Neiswander spoke on behalf of his Application. Mr. Neiswander stated he purchased the property in 2019 with the intention of putting a single-wide mobile home on it; that he hired Beacon Engineering to prepare a site plan; that Beacon Engineering prepared the site plan and submitted the plan to the State; that the State reviewed the site plan and approved it; that once the site plan was approved, he then hired a contractor to install the septic system; that the mound system is large, leaving

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room for a driveway and the rear of the lot for a dwelling; that currently he has a well and septic system installed; that he was preparing to purchase the mobile home; that at the point is when he found that the current zoning did not allow for his proposed single-wide mobile home; that this is the reasoning for his Change of Zone request to GR (General Residential); that the site plan was shown; that the mound system is designed for a two bedroom, one bath house.

There were no public comments.

The Public Hearing and public record were closed.

**M 327 23
Adopt
Ordinance
No. 2937/
CZ1981**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2937 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

1. There was provided testimony on record that the site had previously been allowed to have a single-wide manufactured home on the property.
2. The Change of Zone to the GR Zoning District will allow what was previously there to be replaced with a new single-wide manufactured home.
3. Given the small size of the property, the Change of Zone to GR will not allow for any expansive uses on the property.
4. The Change of Zone to GR will not adversely affect neighboring properties or area roadways.
5. No properties appeared in opposition to the Application.

Motion Adopted: 5 Yeas

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

**Public
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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 AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o]) filed on behalf

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(continued)**

of J.G. Townsend Jr. & Co.

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” (property lying on the east side of Kings Highway [Rt. 9] and the south side of Gills Neck Road [S.C.R. 267], at the intersection of Kings Highway [Rt. 9] and Gills Neck Road [S.C.R. 267]) (911 Address: 16673 Kings Highway, Lewes) (Tax Map Parcel: 335-12.00-3.00 [p/o]) filed on behalf of J.G. Townsend Jr. & Co.

The Planning & Zoning Commission held a Public Hearing on the applications on May 25, 2023. At the meeting of June 22, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons as outlined and approval of Conditional Use No. 2359 for the 8 reasons stated and subject to the 17 recommended conditions as outlined.

Jamie Whitehouse, Planning and Zoning Director presented the applications.

The Council found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Paul Townsend, property owner, Mr. Nick Hammonds with Jack Lingo Asset Management, Mr. Cliff Mumford, Davis, Bowen and Friedel and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell’s Corner commercial project, the Mitchell’s Corner residential project, Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase; that the total acreages is a little over 65 acres; that in the State Planning Coordination’s PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or

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suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and anticipates growth to occur; that according to the 2045 Future Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business); that the other application is for a Conditional Use to allow a multi-family project to be constructed on the property consisting of 102 cottage style multi-family units and he requested Mr. Cliff Mumford to review the Application's technical requirements.

The Council found Mr. Cliff Mumford, Professional Engineer with Davis, Bowen & Friedel, Inc. spoke on behalf of the Applications. Mr. Mumford stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the west; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that further to the west is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, WolfeRunne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Center Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact cottage scale homes, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our

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neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another; that parking is accessed from discrete rear lanes, which are carefully corralled; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would not apply for the four-bedroom and larger units; that the based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently

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Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft. to the property line and 130 ft. to the nearest townhouse unit; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, is located within the Wellhead Protection Area, with approximately 51% impervious coverage, therefore the project must comply with Chapter 89 of the Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sanitary Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 500-2,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first completed in 2007; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals and/or roundabouts, and any other unknown decisions by DelDOT;

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that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the Sussex County Code; that the written responses were submitted in Exhibit 10; that the project has analyzed all aspects of the respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible with other area land uses; that the survey lines were questioned by neighbors; that a licensed and certified surveyor was used; that there has been a lot of discussions with DelDOT in regards to the proposed roundabouts; that discussions and items are still being worked through with DelDOT; that it was questioned if it could be considered to deal with the Byways concerns and their future input on possible landscaping and buffer improvements along Kings Highway; that it was recommended to provide conditions that would provide screening, etc.; that the Byways Committee works with DelDOT; that interconnectivity is important to the developer; that Condition H of the Planning and Zoning Commission's recommendation discusses the interconnectivity; that the 25.5 acres being discussed does not have frontage on Kings Highway; that part of the Master Plan, the developer would not build something that would have an ugly barrier; that Mr. Hammonds stated that the architecture has not been fully developed yet given some of the challenges; that what has been developed is attractive and is nothing that has been build in the area; that there will be some landscaping in between the cottages and the commercial area.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which are expected to become generally urban in character, where sanitary sewer and public

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water supply may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that there was correspondence submitted expressing concerns regarding the proposed density of the project; that he had begun his presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the east is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units,

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which created a density of 5.4 units to the acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the recommendation for approval was unanimous from the Planning and Zoning Commission; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 78% will be maintained by the subject 65 acre property, and the Governors share of the maintenance decreases significantly; that there were concerns raised regarding interconnectivity from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that as discussed, the interconnectivity had been the master plan from the outset of development; that various comments of concern were raised regarding traffic; that Mr. Mumford previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Mumford, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that Chapter 8 in the Comprehensive Plan talks about housing; that the County allows for multi-family uses through applications such as the one being discussed today; that the primary housing type has been detached single-family homes; that it states that one of the strategies or goals should be to allow multi-family uses to occur without a Conditional Use; that it shows that the Comprehensive Plan is looking for other housing options to be available; that it is important to remember that, all of the projects, beginning with WolfePointe, WolfeRunne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Council would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Council renderings of the envisioned courtyard areas for the proposed community; that there is

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nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Council would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Council adopt the recommendations of the Planning and Zoning Commission approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that a change was requested related to the interconnectivity; that for CU2359, it was requested to amend Reason No. 4 in the last sentence, it should read 3.99 units per the acre; that the other change is in 9C. which relates to the amenities; that the second line says including a pool with at least 10,000 sq. feet of surface area; that it should be amended to 1,000 sq. ft. surface area.

Public comments were heard.

Mr. Michael Wolfe spoke in opposition of the application; that he is a resident of Governors; that he is a member of the Board of Directors; that Governors is the neighboring community; that he is speaking on behalf of the Board of Directors; that they opposed the zone change request and conditional use request for the plans and the project as submitted; that their concerns have not been addressed by Sussex County Planning and Zoning and the developer; that he read a letter stating their concerns relating to both applications; that the letter stated, *“this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. We have several concerns regarding the proposed plan. The Governor’s Board of Directors sent a letter to Sussex County Planning and Zoning on or about May 15, 2023, outlining our concerns. The same letter was presented to Sussex County Planning and Zoning Commission on May 25, 2023. We have no response to that letter. It is our belief that our concerns were not considered by Sussex County Planning and Zoning Commission since no revisions were incorporated into the plan as approved by Sussex County Planning and Zoning on June 22, 2023. We request that the points in the letter be addressed. Our primary concern is the safety of our community, residents, family, and children. Governors’ community of 423 homes is a subset of that community. The proposed street interconnectivity plan will result in non-residents using Governors as a cut through from Kings Highway through the Village Center to Gills Neck Road via Stockley Blvd. and then to Governors Blvd. The Governors clubhouse, pool and children’s playground is on this throughfare. Adults and children traverse this throughfare on foot, bikes, and scooters continually. Increased traffic on these streets creates a danger to our families and children. We request limiting interconnectivity to emergency traffic using a siren activated gate (or other means), while still allowing access for bikes and pedestrians.*

According to Nicole Majesi, Secretary of DelDOT and Nathaniel McQueen

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Jr., Secretary of the DE Dept. of Homeland Safety and Homeland Security in an op-ed in April of this year, a crash happens on DE roads every 23 minutes. Last year, 165 individuals – mothers, fathers, daughters, sons, brothers, sisters, family members, friends – were killed on our roadways. This tied Delaware’s 1988 record for the deadliest year. Victims in those 165 facilities ranged in age from 5 to 104. Precious lives lost due to crashes that could have been avoided. This is not just a one-year anomaly. The number of roadway fatalities and serious injury crashes continues to increase each year. We can work together to stop these crashes. Speeding, distracted driving, and impairment are just some of the factors leading to these collisions.

In the short time since the Governors BOD has taken over management of this community, we have already added 8 stop signs and entrance lighting to make our streets safer. Increased traffic coming through the Village Center Residential Community will almost surely make these steps inadequate to protect the children and adults who live here.

We request that the Sussex County Council consider our concerns, in particular the safety of our community residents, families and children.

In addition, a letter was referenced that was distributed to the Planning and Zoning Commission.

Mr. Ed Rush spoke in opposition of the application; that he supports the Board of Directors of the Governors HOA; that he works with the DE fire sprinkler coalition; that he urged the Council that as a condition of this development to require residential fire sprinklers; that the units are close together; that houses burn fast now due to the materials being used and the close proximity; that if fire sprinklers are required, it would prevent the loss of lives and property from fire.

Ms. Ann Borders spoke in opposition of the application; that she opposed the interconnectivity between Governors and the new development; that she is not opposed to the development; that there is a section on the plan that is blank; that she recommends that the future use of that plan be told to her community before that road is opened; that she requests that it not be opened or gated; that not knowing what is coming is a hazard to her community.

Mr. Howard Berger spoke in opposition of the application; that Council description of land use principles is incomplete; that he fully agrees that density and highway connection is accurate; that there are other concerns that were omitted that were summarized by Mr. Wolfe; that proper land use planning is also concerned with safety; that he does not object to interconnectivity; that his community wants access to fire and police; that unregulated and uncontrolled connectivity presents a safety issue; that there are ways to have interconnectivity that is safe.

Mr. Garrett Hughes spoke in opposition of the application; that he is a

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board member of the Governors HOA; that the overreaching concern is safety; that it has not been addressed that putting public traffic on a private road puts the expense of maintenance on the HOA; that he requested the implementation of controlled traffic.

Mr. Thomas Blair spoke in opposition of the application; that he shares the concerns of his neighbors about safety; that he moved here two years ago; that he has saw a lot of tragedies in his life; that he requested that the access roads remain open in case there is a real emergency.

Ms. Debbie Maury spoke in opposition of the application; that she spoke about the word urban; that the problem is the word cut through; that she wants to know who wants it; that everyone that she has spoken with is not interested in the cut through; that access roads should be available for emergencies; that it is not a gated community; that she moved into a neighborhood to be able to ride her bike and walk her dog; that as a neighborhood, they do not want to be a cut through.

Mr. Paul Caprilo spoke in opposition of the application; that he posted comment on website yesterday; that he would like to post an amended comment with some additional points; that he stand in strong opposition of the proposed development; that there are several reasons why the development should not proceed; that he has overcrowding concerns, that the proposed development would only contribute to the existing problem of overcrowding in nearby public areas; that parks, recreational facilities and public spaces are strained due to the influx of residents and visitors; that by preserving the farm land, we can ensure that our community resources accessible and enjoyable for everyone; that in the few years that he has been here, he has seen things get harder and harder to get around; that there was a lot of discussion about density; that he discussed traffic concerns; that currently, this area suffers from daily gridlock; that it is critical to prioritize infrastructure improvements and address traffic issues adequately before adding further strains on the roadway; that there is already a number of projects going on Kings Highway; that one of the defining features of Lewes is the nature beauty and the open preserved land that surrounds it; that there is a charm and character of the community; that the farmland under consideration serves as a vital habitat for wildlife; that this is area is a designated well head protection area; that he read the environmental study; that he shared a picture of a bald eagle on the land; that residents and visitors are drawn to Lewes because of its unique character and natural surroundings; that people come here seeking refuge from urban sprawl and overcrowding; that Lewes has a rich heritage and long standing tradition of valuing and preserving its agricultural roots; that three years ago, the City of Lewes, Lewes Board of Public Works and Sussex County bought Jones Farm across the street; that Councilman Burton then stated “we must work together as a community collaboratively if we want to preserve open space for the community to enjoy now and for generations to come”; that Lewes Board of Public Works Chairman stated “it’s preservation will protect a meaningful portion of the precious ground

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CU2359
(continued)**

water recharge area adjacent to BPW well field that supplies high quality water to the citizens of Lewes and the surrounding area”; that Lewes Mayor Ted Becker stated “the acquisition of Jones Farm represents a major step forward in the preservation of open space and the protection of the City’s water supply, the strategic location of this property along the historic Lewes scenic by way will serve as perpetual recognition of the agricultural heritage of the lands surrounding Lewes, the City is proud to be a partner in the significant effort to preserve open space”; that he asked what has changed; that he thinks a plan of the future of Lewes should be considered; that once we go forward, we can never go back.

Mr. Ken Refuse spoke in opposition of the application; that he has concerns about the traffic; that there are ways to manage the traffic; that the speed limit in the neighborhood has been reduced; that stop signs have been installed; that he believes that speed bumps should be considered; that the interconnectivity is a good concept.

Ms. Cathy Giles spoke in opposition of the application; she expressed concerns of the sewer plan; that they have had issues in the past and were down for three days.

Ms. Laura Wolfe spoke in opposition of the application; that she expressed safety concerns with the interconnectivity; that she questioned why other nearby neighborhoods were self-contained.

The Public Hearing and public record were closed.

**M 328 23
Defer
Action/
CZ1979**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS” based on the reasons heard today and the reasons given by the Planning and Zoning Commission Numbered 1-8.

Motion Adopted: 5 Yeas

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

**M 329 23
Defer
Action/
CU2359**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMIY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56

ACRES, MORE OR LESS” for the reasons heard today and given by the Planning and Zoning Numbered 1-8 with conditions 9A-Q.

Motion Adopted: 5 Yeas

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

**M 330 23
Adjourn**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to adjourn at 3:45 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.}