

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 28, 2003

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, January 28, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

**M 049 03
Approve
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the Agenda, as distributed.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

**M 050 03
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve the minutes of January 21, 2003, as distributed.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

**Corre-
spondence**

Mr. Griffin read the following correspondence:

JAMIE MAGEE, SALT COUNCIL, LEWES, DELAWARE.
RE: Letter in appreciation of grant.

BOYS & GIRLS CLUB, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant.

CHRIS HENDERSON, KINFOLK, WILMINGTON, DELAWARE.
RE: Letter in appreciation of Grant.

**Corre-
spondence
(continued)**

JEANNE J. BEST, EXECUTIVE DIRECTOR, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

WILLIAM R. DEMPSEY, JR., ASSISTANT DIRECTOR OF PUBLIC SAFETY, KENT COUNTY, DELAWARE.

RE: Letter in appreciation of the County's Mobile Command Unit responding to Kent County to assist during the funeral for Leipsic Fire Chief "Buddy Sipple".

**Board of
Assessment
Review/
Vacancies**

Mr. Stickels read a letter from Lucien Ferguson announcing her resignation from the Board of Assessment Review due to health reasons. Also, Mr. Stickels reported that the term of Martha Jane Horn on the Board of Assessment Review expires January 2003.

**M 051 03
Appoint
Ron
Patterson
to the
Board of
Assessment
Review**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, appointing Ron Patterson to the Board of Assessment Review for a term of five years.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**M 052 03
Reappoint
Martha
Horn
to the
Board of
Assessment
Review**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to reappoint Martha Jane Horn to the Board of Assessment Review for a term of five years.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**DelDOT
Proposed
Capital
Transportation
Program**

Mr. Stickels reviewed DelDOT's Capital Transportation Program. He stated that he is pleased with DelDOT's proposal this year. He noted that in the proposal, DelDOT has addressed all of the County Council's concerns about roads and transportation and has allocated \$369,663,500 for improvements in Sussex County. The County received \$147 million in funding last year. Proposed road improvements in Sussex County include the following:

- SR 1 and SR 16 intersection.
- SR 1, Dewey Beach to Rehoboth and Lewes Canal, Improvements
- SR 1, Rehoboth Avenue to North of US 9
- SR 1, SR 30 Interchange, South of Milford
- SR 26, US 113 to Assawoman Bay
- US 13 and S 462 Signal Removal and Service Road, East of Laurel
- US 13 and S 468 Service Road Entrance Closure, North of Laurel

**DelDOT
Proposed
Capital
Transportation
Program
(continued)**

- US 113, Maryland State Line to Georgetown
- US 113, North/South Improvements
- S 401, Clayton Avenue, Frankford
- SR 24 and SR 5, Intersection, Northeast of Millsboro
- SR 24, SR 30 to SR 1
- SR 54, US 113 to S 58C
- Sussex County West/East Improvements
- US 9 and Airport Road Realignment, Georgetown
- US 13, Bridgeville Service Roads
- US 13, Delmar Service Road
- US 13, Greenwood Service Road
- US 13, Laurel Intersection Improvements
- US 13, Seaford Intersection Improvements
- US 113 and Seabury Avenue, Milford
- Milton Truck Bypass, SR 5 to SR 30
- Park Avenue, Georgetown
- Rehoboth Avenue Improvements
- SR 16, SR 1 to Broadkill Beach
- SR 1, Bridge over Indian River Inlet
- BR 3-237 on Elks Road over Gravelly Branch, Seaford
- BR 3-365N and BR 3-365S on North and South US 13 over Records Pond, East of Laurel
- BR 3-526 and BR 3-527 on US 113 over Betts Pond, Millsboro
- BR 3-815N on SR 1 Northbound over Waples Pond

Mr. Stickels noted that the aforementioned listing is only for road improvements; other areas of funding include transportation and aviation. DelDOT has proposed spending \$3.2 million for transit vehicle expansion and \$25.7 million for transit vehicle replacement and refurbishment.

**Administrator's
Report**

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

1. **Christopher Horrocks**

It is with sadness that I inform the Council of the passing of Christopher "Todd" Horrocks on Wednesday, January 22, 2003. Mr. Horrocks died suddenly at Atlantic General Hospital in Berlin, Maryland. Mr. Horrocks had been employed with the County since October 2002 as a Technical Services Assistant for Sussex County Emergency Medical Services. He was in the process of obtaining his paramedic training. Todd was a member of the Millsboro Lions Club and Selbyville Volunteer Fire Company.

Instead of flowers, the family suggests contributions be made to "The Reagan Horrocks College Fund."

**Bond
Issue
2003
Status
Report**

Mr. Baker summarized the terms of the financing and the market conditions and competitive sale related to the issuance of \$31,395,000 General Obligation Bonds Series 2003 by Sussex County. Fairmount Capital Advisors, Inc. served as the County's independent financial advisors in conjunction with the issuance of the 2003 Bonds.

The proceeds of the Series 2003 Bonds will be used to (1) currently refund the County's General Obligation Refunding Bonds, currently outstanding in the aggregate principal amount of \$29,765,000. The General Obligation Refunding Bonds to be refunded consist of the Series 1993 Bonds due October 15, 2006 to October 15, 2020 (5.6% and 5.7%) and (2) currently refund the County's 1992 Dagsboro-Frankford Rural Utilities Service Loan in the amount of \$1,260,491. This 5.50% loan matures in September, 2032.

The 2003 Bond proceeds will be invested in State and Local Government Securities (SLGS) in an amount sufficient to pay the principal of accrued interest on and 2% redemption on the 1993 Bonds on April 15, 2003. The RUS Loan will be retired at Closing, scheduled for February 5, 2003.

As a result of the refunding of the 1993 Bonds, the County stands to realize a present value savings of \$3,278,941.87 representing 10.56% of the refunded issues. Typically, refundings generating over 3% are recognized as cost effective. Debt service savings over the life of the issue total \$4,286,000. Sewer and water districts which will benefit from the savings are Long Neck Sewer District (51%), South Coastal Regional Wastewater Facilities Treatment Plant (22%), North Bethany Sewer District (16%), and Fenwick Sewer District (3%). Dagsboro-Frankford, Dewey Beach, Sussex Shores, Blades, and Henlopen Acres would also benefit.

The County's full faith and credit are pledged to the payment of the principal and interest on the Bonds.

Standard & Poor's Ratings Service rated the Bonds "AA". The Bonds will be rated "AAA" as the winning bidder (Merrill Lynch) decided to purchase Bond Insurance for the purpose of further enhancing the already strong credit quality of these securities.

The 2003 Bonds were sold through a competitive bidding process on January 22, 2003 to Merrill Lynch and Co., at aggressive pricing levels. Bids were received from Merrill Lynch, ABN AMRO, and Morgan Stanley. The three bids that were received for the 2003 Bonds ranged from 3.92895% to 3.95108%. The True Interest Cost achieved on the financing was 3.94602%.

Mr. Baker advised that the Bonds can be purchased through any broker. The interest on the Bonds is tax-exempt for Federal and State income taxes.

**Sub-
ordination
Agreement**

Mr. Baker discussed a Subordination Agreement relating to Cay Properties, LLC which would replace a previous Subordination Agreement. Cay Properties, LLC operates D&B Products at the Industrial Park in

**Sub-
ordination
Agreement/
Cay
Properties
(continued)**

Georgetown, where they rent the land from the County. The County previously agreed to subordinate the County's loan to a loan that Cay Properties received from First Union Bank (\$1.9 million). They have now refinanced with a loan (\$1.76 million) from Sun National Bank and they are requesting approval to substitute this Subordination Agreement.

Mr. Baker pointed out that Cay Properties, LLC refinanced to get a lower rate and the only change in the previous and current Subordination Agreement is the name of the lender.

Mr. Baker noted that the Agreement has been reviewed and approved by the County Attorney.

**M 053 03
Authorize
Sub-
ordination
Agreement/
Cay
Properties**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council authorizes a Subordination Agreement with Cay Properties, LLC and Sun National Bank.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

**Parcel
Map
Project
and GIS
Webpage**

Mr. Matthew Laick, Supervisor of Mapping and Addressing, conducted an internet demonstration of the new mapping system that the Department is putting in place. The funding for this project came from Sussex County, the State of Delaware Office of State Planning Coordination, and the Nature Conservancy. The new mapping system takes approximately 1,200 tax maps and combines them to create a seamless coverage of the entire County. The new mapping system allows the overlay of different types of information, i.e. flood zones, building footprints, Council Districts, 911 addressing, municipal boundaries, roads, railroads, and highways. In the future, sewer districts can be overlaid on the maps.

Currently, 1997 aerial photos are on the web page; when new ones are done, they will be changed. Also, maps are currently 9 –10 months behind. Mr. Laick advised that the Department is working on updating the maps and once they are current, they will be updated every 30 days. The maps should be current in 1 - 1 ½ months.

Mr. Laick reported that the website for the mapping system is www.smartmap.com/sussex. Also, there will be a link to the mapping system on the County's website.

**911
Addressing
Status
Report**

At Council's request, Mr. Laick provided an update on 911 addressing:

- There are 196 subdivisions in Sections 1, 2 and 3, that have petitioned. 109 subdivisions have been looked at with decisions made and letters delivered to almost 90 percent. Eighty-seven (87) subdivisions remain to be reviewed, most of which are in the Rehoboth Beach/Lewes area.

**911
Addressing
Status
Report
(continued)**

Subdivisions have to meet all national standards.

- Only 4 private roads need to be addressed in Section 1, 100 in Section 2, and 70 in Section 3.
- Mr. Laick is currently attempting to talk with Verizon to set a date for a match run to bring the enhanced system into the Ellendale area.
- Work should begin in Section 4 (beach area) in the summer.
- All RD numbers need to be changed as quickly as possible.

**Public
Hearing/
Long
Neck
SSD/
Route 24
Expansion
Request**

A Public Hearing was held to consider extending the Long Neck Sanitary Sewer District (LNSSD) to include parcels of land on the south side of Route 24 (John J. Williams Highway). The expansion would include the Back Bay Shopping Center property, including eleven individually owned parcels along Route 24. Property owners in Sherwood Forest were not interested in being included in the annexation. A conceptual plan for sewer to the area has been submitted to the Engineering Department and has been approved.

Public comments were heard. Mr. Rush Ellis asked about the other side of Route 24 and whether or not it would be included in another expansion project. Mr. Archut responded that the properties are not included in this expansion request because of the difficulties and because of the construction impact of crossing Route 24 to serve each of the properties. A stub will be provided as part of the plan to enable the County to provide service to these properties in the future. Also, in the future, when the property owners express interest, a parallel line will run along Route 24 and cross Route 24 with one sewer line located at the stub to be constructed during this expansion project.

Mr. Sal Leoni, Construction Manager for the property owners of Back Bay commented that the developer will be paying for a 21-inch sewer line on the south side of Route 24 which will be designed for future expansion.

The Public Hearing was closed.

**M 054 03
Adopt
Resolution
No.
R 014 03**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Resolution No. R 014 03 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE PARCELS OF LAND ON THE SOUTH SIDE OF STATE OF DELAWARE ROUTE 24 (JOHN J. WILLIAMS HIGHWAY), BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

**Old
Business/
C/Z No.
1479**

Change of Zone No. 1479 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR/RPC MEDIUM DENSITY RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 148.13 ACRES, MORE OR LESS” filed on behalf of Pepper Creek Joint Venture.

The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2002; on October 10, 2002 the Commission recommended that the application be approved with the following conditions:

- 1. The maximum number of dwelling units shall not exceed 282.**
- 2. Residential building permits shall not exceed 80 per year commencing the date of final approval of this application by the Sussex County Council.**
- 3. Site plan review is required for the master plan and each phase of the proposed development, including the location of curbs, sidewalks, and streetlights.**
- 4. All entrances, intersections, roadway, and multi-modal improvements shall be constructed as required by DelDOT in accordance with its letter of November 2, 2001, and any further modifications required by DelDOT.**
- 5. Interior street design shall be in accordance with or exceed Sussex County street design requirements.**
- 6. Recreational facilities, e.g., tennis courts, swimming pool and community buildings shall be constructed and open to use by the residents not later than the time of the issuance of the 100th Certificate of Occupancy.**
- 7. The RPC shall be served by a central wastewater treatment plant, a collection system built in accordance with the standards of Sussex County Ordinance No. 38 and the requirements of DNREC.**
- 8. In the event that the Developer shall choose to use spray irrigation as a means of waste disposal and wells of adjacent property owners are affected by this means of disposal, the Developer shall provide connection to its central water system at no cost to the adjacent property owners.**
- 9. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 10. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated State or Federal wetlands or open space.**
- 11. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance**

Old
Business/
C/Z No.
1479
(continued)

- areas, except as may be authorized by a valid Federal or State permit.
12. No community boat launching facilities for motorized boats or watercraft shall be permitted within the project.
 13. In order to protect the existing eagle's nest, the Developer shall prepare a Habitat Conservation Plan to be approved by the U.S. Fish and Wildlife Service (FWS) and shall otherwise comply with all laws and regulations applicable to endangered species.
 14. No site preparation, site disturbance, site excavation, or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

The County Council held a Public Hearing on this application on October 15, 2002 at which time action was deferred for further study.

Mr. Abbott, Assistant Director of Planning & Zoning, advised that on January 9, 2003 a letter was received from the Office of State Planning Coordination. The Office received a letter from the applicant's attorney asking that the State reconsider its objection against the proposal based on recent changes to the Sussex County Comprehensive Plan. The Office reviewed the application. The Project was originally located in a rural area and is now (under the updated Plan) located in an Environmentally Sensitive Developing Area. Based on its location, the State no longer objects to the proposal; however, the State asks that if the Council approves the application, that the applicant be required to follow any changes made in a Proposed Ordinance relating to the Environmentally Sensitive Developing Area.

Mr. Stickels noted that four additional conditions were discussed at the October 15, 2002 Public Hearing, as follows:

1. Road naming and addressing of the RPC shall be approved by the County's Addressing Department.
2. The thinning and removal of tree lines within 50 feet of Pepper Creek shall be approved by the Planning and Zoning Commission.
3. No individual boat docks or dock launching facilities shall be permitted.
4. Wastewater facilities shall be reviewed by the Department of Natural Resources prior to the construction of each phase.

(continued) Council discussed the proposed conditions.

M 055 03
Amend
Condition
No. 12/
C/Z No.
1479
(Motion
Failed)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Amend Condition No. 12 (recommended by the Planning and Zoning Commission) to read “One community boat launching facility or dock for motorized boats or watercraft will be permitted within the project.”

Motion Denied: 3 Nay, 2 Yea.

Vote by Roll Call: Mr. Phillips, Nay; Mr. Cole, Yea;
Mr. Dukes, Nay; Mr. Jones, Yea;
Mr. Rogers, Nay

M 056 03
Strike
Condition
No. 12/
C/Z No.
1479

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Strike Condition No. 12 recommended by the Planning and Zoning Commission.

Motion Adopted: 3 Yea, 1 Nay, 1 Abstention.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Abstained;
Mr. Dukes, Yea; Mr. Jones, Nay;
Mr. Rogers, Yea

M 057 03
Adopt
Ordinance
No. 1579
(C/Z
No. 1479)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1579 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR/RPC MEDIUM DENSITY RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 148.13 ACRES, MORE OR LESS” (Change of Zone No. 1479) filed on behalf of Pepper Creek Joint Venture, with the following conditions:

- 1. The maximum number of dwelling units shall not exceed 282.**
- 2. Residential building permits shall not exceed 80 per year commencing the date of final approval of this application by the Sussex County Council.**
- 3. Site plan review is required for the master plan and each phase of the proposed development, including the location of curbs, sidewalks, and streetlights.**
- 4. All entrances, intersections, roadway, and multi-modal improvements shall be constructed as required by DelDOT in accordance with its letter of November 2, 2001, and any further modifications required by DelDOT.**
- 5. Interior street design shall be in accordance with or exceed Sussex County street design requirements.**
- 6. Recreational facilities, e.g., tennis courts, swimming pool and community buildings shall be constructed and open to use by the residents not later than the time of the issuance of the 100th Certificate of Occupancy.**

**M 057 03
(continued)**

7. The RPC shall be served by a central wastewater treatment plant, a collection system built in accordance with the standards of Sussex County Ordinance No. 38 and the requirements of DNREC.
8. In the event that the Developer shall choose to use spray irrigation as a means of waste disposal and wells of adjacent property owners are affected by this means of disposal, the Developer and/or Homeowners Association shall provide connection to its central water system at no cost to the adjacent property owners.
9. The RPC shall be served by a central water system providing adequate drinking water and fire protection.
10. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated State or Federal wetlands or open space.
11. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as may be authorized by a valid Federal or State permit.
12. In order to protect the existing eagle's nest, the Developer shall prepare a Habitat Conservation Plan to be approved by the U.S. Fish and Wildlife Service (FWS) and shall otherwise comply with all laws and regulations applicable to endangered species.
13. No site preparation, site disturbance, site excavation, or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.
14. Road naming and addressing of the RPC shall be approved by the County's Addressing Department.
15. Wastewater facilities shall be reviewed by the Department of Natural Resources and Environmental Control prior to construction of each phase.
16. Community wastewater facilities shall be abandoned once central sewer service by the County is available.

Motion Adopted: 4 Yea, 1 Abstention.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Abstained;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Findings
of Fact
(C/Z
No. 1479)**

The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because it is adjacent to a development district as established by the 1997 Sussex County Land Use Plan.
2. MR zoning is appropriate for the proposed project site because the project is adjacent to and surrounded by other development and central sewer may be available upon expansion application and water are available.
3. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. The subject property is in the Piney Neck area where other residential or strip lot subdivisions have developed with densities similar to or greater than the proposed project. The proposed project is in character with the nature of the area.

**M 058 03
Recess**

At 12:14 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Rogers called Council back into session at 1:35 p.m.

**Public
Hearing
(Conditional
Use No.
1475)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 14,996 SQUARE FEET, MORE OR LESS, OF A 68.3 ACRE PARCEL" (Conditional Use No. 1475) filed on behalf of Frank Jody Brown.

The Planning and Zoning Commission held a Public Hearing on this application on January 16, 2003; the Commission recommended approval with four conditions. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Frank Jody Brown was present and stated in his presentation that he farms the property; that he proposes to build a home across from the site off of Road 567; that he proposes to create a plot for 16 family burial plots for family use only; that no structures are proposed; that he proposes to fence the boundaries of the cemetery; that a dirt driveway exists; and that the family will maintain the cemetery.

There were no public comments and the Public Hearing was closed.

**M 059 03
Adopt
Ordinance
No. 1580
(C/U
No. 1475)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1580 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 14,996 SQUARE FEET, MORE OR LESS, OF A 68.3 ACRE PARCEL" (Conditional Use No. 1475) filed on behalf of Frank Jody Brown, with the following conditions:

1. There shall be no structures within the boundaries of the cemetery.
2. The cemetery boundaries shall be fenced.
3. Perpetual maintenance provisions shall be provided for review and approval by the County Attorney.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

**Findings
of Fact**

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The proposed private family cemetery is of small size and will be located approximately 1,000 feet from the nearest public road and will not have an impact on traffic in the area.
2. The use does not create any adverse effect on the use or values of adjoining owners.
3. The use does not create any adverse effect on the use or values of adjoining owners.
4. The proposed use is appropriate in an AR-1 District.
5. The road and cemetery will be perpetually maintained by the applicant landowner.
6. Prior to site plan review approval, the applicant shall prepare restrictive covenants to be recorded against the land on which the cemetery will be located, which obligate the land owner to provide for the perpetual maintenance and upkeep of the road and cemetery lot and which shall be binding on the current owners and their heirs, successors and assigns.
7. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

**Public
Hearing
(C/U
No. 1476)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD VENDING TRAILER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,

**Public
Hearing
(C/U
No. 1476)
(continued)**

CONTAINING 5.12 ACRES, MORE OR LESS” (Conditional Use No. 1476) filed on behalf of Elizabeth Little and Ed Grimm, t/a Beach Fries.

The Planning and Zoning Commission held a Public Hearing on this application on January 16, 2003 at which time they recommended denial since no one was present on behalf of the application and due to the lack of representation in support of the application.

Elizabeth Little and Ed Grimm were present on behalf of the application and stated in their presentation that they were unaware of the January 16th meeting before the Planning and Zoning Commission; that they had a french-fry vending business at the mini-storage complex site last year; and that they have received permission to place their vending trailer at the site again this year.

Mr. Lank, Director of Planning and Zoning, advised that there was no correspondence from the Department of Transportation since the parcel was already zoned commercial and because it is a conditional use on a commercial property.

Mr. Lank read a letter into the record from the Sussex Conservation District regarding the soils, erosion and sediment control, and drainage improvements.

Mr. Lank read a letter into the record from Frances and Heather Cassidy (adjoining property owners) in opposition to the application. Attached to the letter was a copy of a portion of the site plan showing the mini-storage complex (on which the vending trailer would be located); showing a 50-foot wide perpetual cross-access easement serving the Cassidy property; and showing a 15-foot wide strip dedicated to public use across the front of the mini-storage complex property.

There were no public comments and the Public Hearing was closed.

**M 060 03
Adopt
Ordinance
No. 1581
(C/U
No. 1476)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1581 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD VENDING TRAILER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS” (Conditional Use No. 1476) filed on behalf of Elizabeth Little and Ed Grimm, t/a Beach Fries, with the following conditions:

- 1. Approval is valid on a seasonal basis, from May 1st to September 30th.**
- 2. Hours of operation shall be from 10:00 a.m. to 10:00 p.m., seven days a week.**
- 3. Trailer cannot be located in the setback or easement areas without written permission of adjacent property owner.**
- 4. Restrooms shall be available for applicant’s employees**
- 5. Applicant shall provide for sanitary trash disposal.**

**M 060 03
(continued)**

6. Seating shall be limited to two picnic tables, not to exceed 10 feet in length.
7. Only one food-vending trailer shall be permitted on site.
8. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

**Findings
of Fact**

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The proposed use is public in nature and will serve the general convenience of the public.
2. The conditions imposed by Council will limit any adverse impacts on neighboring properties.
3. The location of the mobile vending trailer and parking for customers will be adequately addressed during site plan review.
4. Restroom facilities will be available at the mini-storage for employees of the business.
5. The use is seasonal in nature.
6. The applicant has and will maintain permission of the owner of the mini-storage business to park the mobile vending trailer on their property when the mobile vending business is in operation.

Recess

At 2:25 p.m., Mr. Rogers declared a recess.

Reconvene

Mr. Rogers called Council back into session at 2:30 p.m.

**Public
Hearing
(C/Z
No. 1483)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,250 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1483) filed on behalf of Apple Electric, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on January 16, 2003 at which time they deferred action. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Lisa Prestipino was present on behalf of Apple Electric, Inc. and stated that they operate an electrical contracting business from the site; that they propose to erect a larger lighted ground sign and an awning on the building; that the existing unlighted sign is only 2 feet by 3 feet; that the area is commercial; that their sign gets lost in all the other commercial signs in the area; that they have adequate parking on the site; and that they want to upgrade the out-buildings on the site.

There were no public comments and the Public Hearing was closed.

M 061 03
Defer
Action/
C/Z
No. 1483

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1483, an application of Apple Electric, Inc.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

M 062 03
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 2:26 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council