

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 18, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 18, 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 141 03 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the
Approve
Agenda

Motion Adopted: 5 Yea.

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

M 142 03 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Griffin read the following correspondence:
spondence

ROSA LEE MILLER.

RE: Letter to Community Development for the repairs made to her home.

BRUCE A. RICHARDS, PH.D., DELAWARE CENTER FOR THE INLAND BAYS, LEWES, DELAWARE.

RE: Letter thanking Council for authorizing \$50,000 in funding to support the renovation of their new office facility at Indian River Inlet.

JOSEPH CONAWAY, PRESIDENT, TOWN OF BRIDGEVILLE, BRIDGEVILLE, DELAWARE.

**Corre-
spondence
(continued)**

RE: Letter in appreciation of funding to help defray the cost of revising the Zoning Ordinance and developing a Subdivision Ordinance.

HAROLD TRUXON, PRESIDENT, ELLENDALE COMMUNITY CIVIC IMPROVEMENT ASSOCIATION, INC., ELLENDALE, DELAWARE.

RE: Letter in appreciation of funding for the fifth annual fundraiser and honoree banquet to help raise funds for sewer hook-up fees for residents of Ellendale who may need assistance.

ALICIA HOLLIS, DIRECTOR OF COMMUNITY RELATIONS, KENT-SUSSEX INDUSTRIES, INC., MILFORD, DELAWARE.

RE: Letter in appreciation of funding for KSI's 2004 wall calendar.

BOBBY HORSEY, PRESIDENT, SHORE THUNDER STARZ, INC., LAUREL, DELAWARE.

RE: Letter in appreciation of funding for travel expenses.

**M 143 03
Adopt
Procla-
mation**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING MONDAY, MARCH 17, 2003 AS A DAY TO HONOR KATHY MITCHELL WOOTTEN, LAUREL'S CITIZEN OF THE YEAR".

Motion Adopted: 5 Yea.

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

**M 144 03
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING FRIDAY, MARCH 14, 2003 AS SUSSEX COUNTY MARCH OF DIMES WALKAMERICA KICK-OFF DAY".

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/U
No. 1472
and
C/U
No. 1473**

Mr. Lank, Director of Planning and Zoning, and Mr. Izzo, County Engineer, provided information on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (48 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.58 ACRES, MORE OR LESS" (Conditional Use No. 1472) filed on behalf of Caldera Properties, L.P. and the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL

Old
Business
(continued)

DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (160 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40.74 ACRES, MORE OR LESS" (Conditional Use No. 1473) filed on behalf of Caldera Properties, L.P.

The Sussex County Council held a Public Hearing on these applications on February 4, 2003 at which time action was deferred for additional information on sewer capacity in the Cedar Neck area; road capacity; any planned road improvements; and a phasing plan.

Mr. Izzo reported on the sewer capacity. He stated that flow projections for non-developed parcels at 4 EDU's per acre in the Development District and 6.67 EDU's per acre in commercial zoning were first adopted in the performance of the West Rehoboth Sewer Planning Study, and have become the County standard. The 6.67 figure equates to 2000 gallon per day per acre and was determined by an actual review of development patterns along the Route One corridor.

Mr. Izzo stated that the 4 EDU (Development District) and 6.67 EDU (Commercial) figures were not expected to be hard caps for individual parcels, but must be observed on average throughout the Cedar Neck Sewer District. Mr. Izzo expressed concern that there is another project in the area that has been approved in excess of the 6.67 EDU's per acre and a proposed project that exceeds the planning numbers.

Mr. Izzo noted that Council can allow some flexibility in the decision making process; however, every development cannot exceed the planning numbers. He noted that one possibility to address this situation would be to cap the amount of EDU's permitted above the design standard.

Mr. Lank reviewed a letter from Mr. Brockenbrough, County Coordinator, Delaware Department of Transportation, to Mr. Ross Harris, President, Environmental Consultants International Corporation, relating to traffic information on Cedar Neck Road and Fred Hudson Road. Mr. Brockenbrough commented that prior to the traffic light being placed at the intersection of Roads 360 and 357, the Level of Service was D; with the placement of the traffic light, the Level of Service improved to B. Mr. Brockenbrough further commented that there are no current plans to widen Cedar Neck Road through a DelDOT contract and that the only potential improvements are ones which would be done by Caldera Properties, L.P. as part of the entrance improvements.

Mr. Lank noted that Mr. Cole requested a copy of the minutes of meetings on the Salt Pond Project. These minutes have been provided to Mr. Cole and are available to other members of Council.

Mr. Lank referred to the requested phasing plan. Mr. Ross Harris has advised that they will not exceed 75 units annually on a cumulative basis.

**Administrator's
Report**

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

1. Beneficial Acceptance

On March 13, 2003, the Sussex County Engineering Department granted Beneficial Acceptance to Sussex County Project No. 81-04, Ocean View Sanitary Sewer District, Briarcliffe, Agreement No. 249. Included with this report is a summary of the activities for this project.

2. Sussex County Council Committee on Aging

Included with this report is a newsletter from the Sussex County Council Committee on Aging. This committee was appointed by the Sussex County Council to review and make recommendations on programs that affect the senior citizen and handicapped population of Sussex County. The committee meets six times a year. The next meeting is scheduled for May 19, 2003, at 9:00 a.m. at the Sussex County West Complex, North DuPont Highway, Georgetown, Delaware. The general public as well as the media is invited to attend this meeting. The committee has asked if the media would give consideration in publicizing the information that they are making available in this month's newsletter.

3. Homeland Security Level

As a result of President George W. Bush's announcement of pending military action against Iraq, Governor Ruth Ann Minner raised the Delaware Homeland Security Threat Level to "High," or orange, on Monday evening. This level matches the Federal Department of Homeland Security's warning. The Delaware Homeland Security Threat Level recommends that at Level Orange:

- Individuals and families should prepare for disruptions of normal activities and exercise caution when traveling;
- Communities enforce parking of vehicles away from sensitive buildings and randomly search vehicles;
- Schools limit visitors;
- Businesses limit or escort visitors and increase security patrols; and
- Governments place emergency management personnel on alert status.

**Report
(continued)**

The full list of recommended actions can be found by going online to www.state.de.us/dema and clicking on "Preparing for the Threat of Terrorism."

**Cedar
Neck
Sanitary
Sewer
District/
Contract C/
Bid Award**

Mr. Izzo, County Engineer, discussed the bid results for Sussex County Project No. 99-12C, Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District, Sandy Cove Road Collection & Conveyance, which were reported to Council on February 25, 2003. At that time, action was deferred on the recommendation of Mr. Izzo based on the fact that the Engineering Department wanted to meet with American Paving to question them on how they plan to handle the contract due to some concern about their ability to complete the work since they are already working on Contract A.

Mr. Izzo noted that an Alternate Bid was requested on the project because a request was received from the Cedar Crest Subdivision to upgrade their unpaved roads. Mr. Izzo further noted that there are legislative funds available to pay for the upgrade.

Mr. Izzo reported that the Engineering Department met with American Paving and they have come up with a schedule and a deployment of their employees that indicates that they are able to complete the work in a timely fashion. This is based on each one of their crews being able to install approximately 125 feet per day. Mr. Izzo advised that Hopkins Construction, a subcontractor, will be installing the two pumping stations that are included in the contract. Mr. Izzo further advised that American Paving received a letter from Hopkins Construction which states that "if there are any other components of the project that we can be of help to you, please don't hesitate to inform us. We are willing to make one or two pipe crews available, and are able to service your dewatering needs".

Mr. Izzo advised that it is the Engineering Department's recommendation to award the alternate bid to American Paving.

Mr. Izzo reported that Whitman, Requardt & Associates, the County's Consultant on the project, is recommending that Contract C be awarded to American Paving Corporation based on the bid review and Scope Meeting.

**M 145 03
Award
Contract C/
Cedar Neck
Expansion
of the
Bethany
Beach
Sanitary
Sewer
District**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP and the Engineering Department, that Sussex County Project No. 99-12C, Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District, Sandy Cove Road Collection & Conveyance, be awarded to American Paving Corporation at the Alternate Bid amount of \$2,866,352.00, contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control (DNREC) and the United States Department of Agriculture (USDA) Rural Development Agency.

**M 145 03
(continued)**

Motion Adopted: 5 Yea.

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

**Ellendale
Sanitary
Sewer
District
Contract/
Change
Orders**

Mr. Izzo discussed Proposed Change Orders for the Ellendale Sanitary Sewer District, Contract A, with George and Lynch. Change Order No. 1, in the amount of \$1,749.78 is a result of storm sewer upgrade on County Road 213. It is proposed that the County will pay for the material (pipe) and George and Lynch will provide the labor for free. Change Order No. 2, in the amount of \$3,054.10, is a result of a DelDOT storm sewer on Route 16 which was not shown on the plans. The sanitary sewer line will have to be slightly shifted further out into the traffic line, creating the need for additional pavement restoration.

**M 146 03
Approve
Change
Orders/
Ellendale
Sanitary
Sewer
District
Contract**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP and the County Engineering Department, that Change Order No. 1 and Change Order No. 2 for Sussex County Project No. 89-16A, Ellendale Sanitary Sewer District, be approved in the amounts of \$1,749.78 (Change Order No. 1) and \$3,054.10 (Change Order No. 2) which increases the contract total from \$4,469,787.89 to \$4,474,591.77.

Motion Adopted: 5 Yea.

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

**Recommen-
dation of
Consultant
Selection
Committee/
Building
Con-
struction
Projects**

Mr. Izzo stated that the County currently has two proposed building projects on the drawing board: a records storage facility and a new Emergency Operations Center building. A Consultant Selection Committee prepared and advertised a proposal to select an engineer/architect for any County building-related projects in the next five years. Responses were received from sixteen different engineers and architects. The Consultant Selection Committee reduced the "candidates" to five and the five firms were interviewed; emphasis was placed on experience in the construction of public security/emergency operations buildings. The Committee ranked the five firms as follows:

1. L. Robert Kimball & Associates
2. Becker Morgan Group, Inc.
3. Staikos Associates Architects
4. George, Miles & Buhr, LLC
5. Probst-Mason, Inc. Architects

After a review of all the information and a visit to a facility constructed by Becker Morgan Group, the Consultant Selection Committee voted and recommended that the firm of L. Robert Kimball & Associates be selected.

**Recommendation
(continued)**

It was noted that the final selection would not lock that firm in for these construction projects or every construction job in the next five years. The County can decide to negotiate a contract with one of the other firms on the list (in the order that they were ranked) or the five selections can be voided and the process repeated.

**M 147 03
Approve
Selection
of L.
Robert
Kimball
and
Associates**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Consultant Selection Team, that L. Robert Kimball and Associates be selected to provide engineering and architectural services for building projects for a five-year period effective this date.

Motion Adopted: 5 Yea.

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

Mr. Izzo advised that a contract will be negotiated with L. Robert Kimball and Associates and the contract will be submitted to Council for approval.

Requests

Mr. Stickels submitted funding requests for Council's consideration.

**M 148 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to Mothers Against Drunk Driving, Delaware Chapter, for the purchase of fatal vision goggles.

Motion Adopted: 5 Yea.

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

**M 149 03
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$250.00 from Mr. Dukes' Councilmanic Account to the Sussex County Animal Association for renovations to a mobile van.

Motion Adopted: 5 Yea.

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

**M 150 03
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$300.00 (\$100.00 each from Mr. Dukes', Mr. Jones', and Mr. Phillips' Youth Activity Grant Accounts) to Delaware Storm for tournament expenses.

Motion Adopted: 5 Yea.

**M 150 03
(continued)**

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

**M 151 03
Youth
Activity
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$200.00 (\$100.00 from Mr. Dukes' Youth Activity Grant Account and \$50.00 each from Mr. Phillips' and Mr. Jones' Youth Activity Grant Accounts) to Sussex Chix Girls Softball Team for operating and tournament expenses.

Motion Adopted: 5 Yea.

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

**M 152 03
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$200.00 (\$100.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Accounts) to the Laurel Alumni Scholarship Foundation for scholarship funding.

Motion Adopted: 5 Yea.

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

**M 153 03
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$400.00 from Mr. Phillips' Youth Activity Grant Account to the Town of Selbyville for improvements to the ball field and purchase of equipment.

Motion Adopted: 5 Yea.

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

**M 154 03
Recess**

At 11:00 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, 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
(C/U
No. 1482)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT (20 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.187 ACRES, MORE OR LESS" (Conditional Use No. 1482) filed on behalf of Land Design, Inc.

**Public
Hearing
(C/U
No. 1482)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2003 at which time they deferred action. On March 13, 2003 the Planning and Zoning Commission recommended approval of this application, with conditions. The record of the Planning and Zoning Commission was incorporated into the record of the Sussex County Council's Public Hearing.

The Commission found that Heidi Balliett, Attorney; Tom Ford of Land Design, Inc; Ed Launay of Environmental Resources; and Skip Valliant, Realtor were present and spoke on behalf of the application.

Council discussed at length the placement of one of the buildings partially on wetlands; the pedestrian trail that will cross the wetlands; and the easement across from the site on the ocean side of Route One for access to the beach.

Council reviewed the proposed conditions (a - n) submitted by the Planning and Zoning Commission.

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

**M 155 03
Defer
Action
on
C/U
No. 1482
(Motion
Died)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1482 so that staff can rewrite the proposed conditions as amended by Council for a final review prior to a vote being taken.

Mr. Phillips withdrew his Second to the Motion.

The Motion died for the lack of a Second.

**M 156 03
Eliminate
Proposed
Condition
No. M/
C/U
No. 1482
(Motion
Denied)**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to eliminate Proposed Condition "M" which states "Building D shall be reconfigured to eliminate or substantially reduce any encroachment onto Federal 404 Wetlands. There shall be no disturbance of State or Federal Wetlands at all."

Motion Denied: 3 Nay, 2 Yea.

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

**M 157 03
Amend
Proposed
Condition
No. M
(Motion
Died)**

A Motion was made by Mr. Cole to Amend Proposed Condition "M" to read "All buildings shall be reconfigured to eliminate or substantially reduce any encroachment onto Federal 404 Wetlands. There shall be no disturbance of State or Federal Wetlands with the exception of the pedestrian path."

The Motion died for the lack of a Second.

M 158 03
Amend
Proposed
Condition
No. M

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend Condition "M" to read "There shall be no encroachment of State or Federal Wetlands unless allowed by State or Federal permits."

Motion Adopted: 4 Yea, 1 Nay.

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

M 159 03
Adopt
Ordinance
No. 1587
(C/U
No. 1482)

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1587 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT (20 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.187 ACRES, MORE OR LESS" (Conditional Use No. 1482), filed on behalf of Land Design, Inc., with the following conditions:

- a. The maximum number of residential units shall not exceed 20.
- b. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
- c. Recreational facilities and amenities, including the path and observation deck, shall be constructed simultaneously with the construction of the dwelling units.
- d. The development shall be served as part of the Sussex County Fenwick Island Sanitary Sewer District.
- e. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- f. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
- g. Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
- h. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
- i. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- j. 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 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

**M 159 03
(continued)**

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.

- k. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 7:00 am and 6:00 p.m.
- l. There shall be a provision in the applicable governing documents for the project providing for the perpetual maintenance of the amenities, including the pier, if permitted, the observation area and pathways.
- m. There shall be no encroachment of State or Federal Wetlands unless allowed by State or Federal permits.
- n. The developer shall take whatever steps are necessary, using best management and construction practices, to avoid erosion and deterioration of the banks of the 25-foot drainage ditch easement on the southern boundary of the site.
- o. The applicant may only clear the amount of 404 wetlands needed to construct the units and the amenities.
- p. The right to use the pedestrian easement to the ocean on the East side of Route 1 will be granted to each unit purchaser, their heirs, assigns and invitees.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
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 use is appropriate for a conditional use in a MR District.
2. The land in question is not in agricultural production and development will not pose a hazard to the watershed.
3. DelDOT and the Office of State Planning Coordination have no objections.
4. The proposed use is in accordance with the Comprehensive Plan.
5. The residential densities are less than surrounding developments and the area is served by central sewer and water systems.
6. The development and sale of the residential units will have a positive economic impact on the County.
7. No persons appeared in opposition to the application.

**Findings
of Fact
(continued)**

8. The findings, recommendations and conditions proposed by the Commission are adopted, with the exception of condition (m), which was modified, and Council added additional conditions (o) and (p).
9. Approval of the application will promote the prosperity and welfare of the present and future inhabitants of the County.

**Public
Hearing
(C/U
No. 1481)**

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 CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.202 ACRES, MORE OR LESS" (Conditional Use No. 1481) filed on behalf of Darrell L. and Felicia A. Matthews.

The Council found that there were no parties present on behalf of the application.

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

**M 160 03
Deny
Proposed
Ordinance
C/U
No. 1481**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to deny the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.202 ACRES, MORE OR LESS" (Conditional Use No. 1481) filed on behalf of Darrell L. and Felicia A. Matthews, due to the lack of representation in support of the application.

Motion Adopted: 5 Yea.

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

**M 161 03
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council