

SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE, MAY 15, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, May 15, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 267 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the
Approve Agenda, as distributed.
Agenda

Motion Adopted: 5 Yea.

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

M 268 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve minutes of the May 1, 2001 meeting, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

M 269 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve minutes of the May 8, 2001 meeting, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

Slam Dunk
to the Beach
Funding
Request

Mr. Robert Jacobs, President and CEO of Slam Dunk to the Beach (National High School Basketball Tournament), was in attendance and expressed his appreciation for Council's past support of the event. Mr. Jacobs requested \$35,000 from Council for the 2001 tournament to be held at the Cape Henlopen High School in Lewes. The request is an increase of \$20,000 over Council's contribution last year in the amount of \$15,000. The requested increase is a result of rising costs associated with the tournament's growth. In response to questions raised by Council, Mr. Jacobs stated that limitations of the Cape Henlopen High School site prevent the non-profit tournament from becoming self-sustaining through ticket sales and sponsorships. He said that it could become self-supporting in a larger facility and that he hopes to eventually bring a larger facility to the County in the form of a convention center. Mr. Jacobs emphasized that he wants to keep the tournament in Sussex County and that he needs extra funding to continue to do so. Mr. Stickels advised that the Budget Committee will consider the request for funding.

M 270 01
Adopt
Proclamation

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Proclamation entitled "PROCLAIMING THE WEEK OF MAY 20 THROUGH MAY 26, 2001, AS 'MAKE AN IMPACT WEEK'".

Motion Adopted: 5 Yea.

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

Project
Impact

Nancy Lucy, Coordinator, and Harry Steele, Steering Committee Chairman, were in attendance representing Bethany Beach's Project Impact. Project Impact programs are also in operation in Lewes, Rehoboth Beach and Milford. The federal program helps communities make preparations to reduce damage from natural disasters.

Adminis-
trator's
Report

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

1. 9-1-1 Center Open House

A reminder that the Delaware State Police and the Sussex County Emergency Operations Center will be hosting an Open House on Thursday, May 17, 2001, at the Sussex County Emergency Operations Center, 100 Airport Road, Georgetown, Delaware. The event will take place from 10:00 a.m. to 7:00 p.m. This event will provide citizens a valuable education on the process of 9-1-1 calls, as well as tips and displays on summer safety. I would encourage Sussex County residents to visit the Center and experience what occurs when a 9-1-1 call is made.

Adminis-
trator's
Report
(continued)

2. FY 2002 Budget

On Tuesday, May 22, 2001, the Sussex County Council 2002 Budget will be presented to the public. There will be a special press briefing at 8:00 a.m. in the Council Chambers. The Council will be presented with the budget at the regularly scheduled Council meeting at 10:00 a.m. that day. The public hearing on all expenditures relating to the budget will be held on Tuesday, June 19, 2001, starting at 10:30 a.m.

Pension
Fund
Committee
Meeting
Report

Mr. Baker summarized the Pension Fund Committee meeting held on May 15, 2001. At the meeting, a report was reviewed showing the Pension Fund performance since 1994. Mr. Baker reported that the calendar year ending April 30, 2001 was not a good year for the stock market and that for the quarter-ended March 31, 2001, Standard & Poor's index was down 12 percent. Mr. Baker advised that, since January 1, 2001, the stock market conditions resulted in a decrease in the County's Pension Fund value by \$474,244. The total value of the fund as of April 30, 2001 was \$17,961.404; a 2.56 percent decrease since January 1, 2001. Comparable indices show a return of -0.70 percent. Mr. Baker advised that the County's pension fund is diversified (40 percent bonds and 60 percent stocks) and, for this reason, negative impacts are minimized. Mr. Baker noted that the pension fund is to be viewed as a long-term investment with periods of ups and downs. He reported that from 1994 to 2000, the County has earned an average of 11 percent per year. (The actuarial assumption estimate has been 8 percent per year.) Since 1995, the pension fund value increased \$6.8 million as a result of investment earnings. Regarding the individual trustee returns, Mr. Baker reported that the Wilmington Trust return was -2.90 percent; Fidelity Investments return was .64 percent; and the State of Delaware Local Government Retirement Investment Pool return was -3.80 percent.

Mr. Baker reviewed a letter from Ben Mancarella of the Wilmington Trust Company's Investment Advisory Group, dated April 27, 2001, in which Mr. Mancarella discussed the stock market situation.

Mr. Baker discussed the County's actuarial report, which includes a recommendation that the County contribute 8.08 percent of gross salaries to the pension fund for the next fiscal year. This is a maintenance-type contribution, which covers growth and an additional year of service for current employees.

Mr. Baker advised that the Actuary's letter also details a change in the benefit formula for paramedics and dispatchers. In conjunction with the County Council authorizing paramedics and dispatchers to retire with 25 years of service, a change in the formula would allow them to receive a pension that would be approximately 50 percent of their average salary. Under the old formula, they would receive a pension that would be approximately 42 percent of their average salary.

Pension
Fund
Committee
Meeting
Report
(continued)

Mr. Baker reported that, from July 1, 1998 through September 1, 2000, the Paramedic Department experienced a 30 percent turnover rate – a rate that is twice the average rate for other County employees.

The County is hoping to stay competitive with surrounding governments and it is anticipated that, with these changes, the high turnover rate of paramedics will be reduced.

Mr. Baker reviewed proposed changes to the Pensioner Group Hospital Program. Currently, an employee with 8 years of service can receive full group hospital coverage if they continue working until the age of 62. However, as an example, an employee with 20 years of service who leaves the County prior to retirement age would not receive group hospital coverage. Under the proposed changes: (1) pensioners with less than 15 years of service will not be provided group hospital coverage, (2) pensioners with 15 to 25 years of service will be provided with group hospital coverage at 50 percent cost to them; and (3) pensioners with 25 years or more of service will receive group hospital coverage, with 100 percent of the cost paid by the County. Mr. Baker and Mr. Stickels noted that this proposal would be more equitable to employees and would also provide a savings to the County. Mr. Baker advised that these proposed changes will be effective for new employees as of July 1, 2001 and would be grandfathered as an option for current employees.

Mr. Baker reported that in 1985, the County sold Single Family Mortgage Bonds, which were used by local banks to loan money to County residents for home mortgages. The income from the mortgage money was used to pay off the bonds. Wilmington Trust Company has advised the County that the bonds have been paid off and \$152,000 is available for the County's use, with another \$124,000 outstanding (that the County will continue to receive payments on). Mr. Baker advised that the Pension Committee has recommended that the funds be invested in the County's Pension Fund.

M 271 01
Invest
1985
Single
Family
Residential
Mortgage
Bond
Revenue

A Motion was made by Mr. Jones, seconded by Mr. Cole, that the funds available from the 1985 Single Family Residential Mortgage Bond revenue be deposited in the Sussex County Pension Fund and invested in the State of Delaware Local Government Retirement Investment Pool.

Motion Adopted: 5 Yea.

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

South
Coastal
Planning
Area
Study

Mr. Izzo, County Engineer, and Mr. Willey of George, Miles and Buhr (GM&B), summarized Amendment No. 3 to the South Coastal Planning Study for West Fenwick / Americana Bayside. Mr. Willey advised that the study area includes Pump Station 30, which currently serves the existing Fenwick Island Sanitary Sewer District. Mr. Willey reported that the current status of

South
Coastal
Planning
Area
Study/
West
Fenwick/
Americana
Bayside
(continued)

Pump Station 30 is that it is operating at-capacity or nearly at-capacity. Under the goals of this study, GM&B will look at the existing infrastructure; determine the capacity of the existing infrastructure; develop and examine growth scenarios based on development pressures in the area; recommend upgrades based on the comparison between the growth scenarios and the infrastructure capacity; and provide cost estimates for any recommended upgrades.

Mr. Willey reported that, as a result of the study, GM&B recommends Alternative 4A which provides for the upgrade of Pump Station 30 at its current location and the construction of a new force main to the South Coastal Regional Wastewater Treatment Facility.

Mr. Willey reported that the Phase I upgrade (the short-term pump station upgrade and gravity collection and transmission system), which will get the proposed West Fenwick flows to the Pump Station 30 location, has an estimated cost of \$2,354,000. Phase II (gravity collection and transmission system to serve the entire West Fenwick District beyond the Americana Bayside development has an estimated cost of \$12,600,000. Mr. Willey advised that the collection and transmission portion of the cost would most likely be paid for by the developers while the cost of future upgrades to Pump Station 30 will be paid by new connection fees.

Mr. Izzo emphasized that whether or not the Americana Bayside development moves forward, the upgrades will still be necessary due to the fact that Pump Station 30 was designed and constructed 25 years ago and has is reaching its maximum capacity.

M 272 01
Adopt
South
Coastal
Planning
Area
Study/
Amendment
No. 3

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Engineering Department, that the South Coastal Planning Area Study, Amendment No. 3, West Fenwick / Americana Bayside, be adopted by the Sussex County Council.

Motion Adopted: 5 Yea.

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

Boundary
Extension
Request

Mr. Archut, Assistant County Engineer, discussed a proposed boundary extension to the Fenwick Island Sanitary Sewer District to include the Americana Bayside Project.

M 273 01
Prepare
and Post
Notices

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council authorizes the Sussex County Engineering Department to prepare and post notices for the extension of the Fenwick Island Sanitary Sewer District boundary to include Americana Bayside and adjacent properties, as presented on May 15, 2001.

M 273 01
(continued)

Motion Adopted: 5 Yea.

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

Wastewater
Facilities

Mr. Green, Director of Utility Construction, discussed wastewater facilities in the Bethany Beach Sanitary Sewer District.

M 274 01
Grant
Beneficial
Acceptance/
Summerset
Subdivision

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 198, that the Sussex County Council grants Beneficial Acceptance for Lots 1 through 21, for the wastewater facilities constructed in Summerset Subdivision, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 275 01
Execute
Agreements/
Topsail
Village

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 214, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Salt Pond Associates for wastewater facilities to be constructed in Topsail Village, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Abstention.

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

Proposed
Ordinance

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND THE BOUNDARIES FOR CONDITIONAL USE NO. 1272 TO ALLOW FOR AN ADDITION TO THE EXISTING OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.53 ACRES, MORE OR LESS" (Conditional Use No. 1412) filed on behalf of Mark H. Davidson. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF AN EXISTING BORROW PIT (CONDITIONAL USE NO. 954 AND NO. 1079) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 200.5 ACRES, MORE OR LESS" (Conditional Use No. 1413) filed on behalf of Edward J. Kaye. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.6231 ACRES, MORE OR LESS OF A 36.024 ACRE TRACT" (Change of Zone No. 1440) filed on behalf of Gerald T. Landy. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 27.3139 ACRES, MORE OR LESS" (Change of Zone No. 1441) filed on behalf of David B. Webb, Jr. The Proposed Ordinance will be advertised for Public Hearing.

M 276 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 from Mr. Phillips' Councilmanic Account to the Delmar Middle and Senior High School for the "Hug the Hate Away" event.

Motion Adopted: 5 Yea.

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

M 277 01
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 from Mr. Cole's Councilmanic Account to the Bethany Beach 4th of July Parade Committee for the Annual Fourth of July Parade.

Motion Adopted: 5 Yea.

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

M 278 01 Councilmanic Grant A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00, \$100.00 from each Councilmanic Account, to the Delaware State Police Troop 5 for the Law Enforcement Explorers group program.

Motion Adopted: 5 Yea.

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

M 279 01 County Council Grants A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 from County Council Grants to The Phoenix Club for the annual statewide ceremony recognizing survivors of cardiac arrest.

Motion Adopted: 5 Yea.

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

M 280 01 Recess At 11:45 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

Public Hearing (C/U No. 1385) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (34 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.11 ACRES, MORE OR LESS" (Conditional Use No. 1385) filed on behalf of Bayside Development Group, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on April 19, 2001, at which time they recommended approval (with stipulations) since the site is adjacent to a C-1 General Commercial District and is across from HR High Density Residential zonings which allow similar densities and since the rezoning creates a separation between the commercial activities and residential single family parcels.

The Council found that James Fuqua, Attorney; Jeff Hamer, applicant; and Ross Harris of Environmental Consulting International were present on behalf of the application. In March of 2000, the applicant applied for HR High Density Residential zoning for 44 units on 4 acres. In April of 2000, the Sussex County Council denied the rezoning. Mr. Fuqua stated that the applicant has reviewed his concept and the comments made in opposition to the first application and as a result, is proposing 34 units within 17 duplex

Public
Hearing
(C/U
1385)
(continued)

buildings in this application

Mr. Fuqua stated for the record that the applicant would make every effort to resolve drainage problems to the extent that they can.

Public comments were heard in support of and in opposition to the application. The Public Hearing was closed.

M 281 01
Adopt
Ordinance
No. 1457
(C/U
No. 1385)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1457 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (34 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.11 ACRES, MORE OR LESS" (Conditional Use No. 1385) filed on behalf of Bayside Development Group, Inc., with the following stipulations:

1. The maximum number of residential units shall not exceed 34.
2. The project shall be served by the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
3. The site shall be served by a central water system providing drinking water and fire protection per applicable regulations and per the approval of the Department of Natural Resources and Environmental Control, the State Fire Marshal's Office, the Public Service Commission, and the State of Delaware Office of Public Health.
4. All entrance improvements shall be constructed as required by DelDOT. The project shall provide access to Road 273-A and Oyster House Road.
5. The developer shall obtain ingress and egress cross-access easement for Oyster House Road.
6. State and Federal wetlands shall be maintained as a non-disturbance area except for disturbance authorized by a valid Federal or State permit. There shall be no construction in any wetlands without a valid permit.
7. No site preparation, site disturbance, excavation, or other construction shall commence until all permits required have been issued.
8. Stormwater management, and erosion and sediment control shall equal or exceed all applicable State and County regulations.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

M 281 01
(continued)

Motion Adopted: 5 Yea.

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

Findings
of Fact

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

1. The applicant established that the proposed use is located in a Development District.
2. The applicant established that with the entrance/exit via Oyster House Road, the proposed use will have no adverse traffic impact and will put no further burden on Bay Vista Road.
3. The applicant established that the proposed conditional use will have no adverse impact of any sort with its reduced scope and with the protections provided by conditions attached to the approval.
4. The applicant established that the project is consistent with the purposes and goals of the Comprehensive Land Use Plan.
5. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1423)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A HR/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A HR/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 76.69 ACRES, MORE OR LESS" (Change of Zone No. 1423) filed on behalf of Preston L. Dyer.

The Planning and Zoning Commission held a Public Hearing on this application on April 19, 2001, at which time they recommended that the application be approved.

The Council found that Preston Dyer, applicant, was present on behalf of the application. Mr. Dyer stated that they propose 280 lots at an overall total density of 3.64 units per acre.

Mr. Dyer stated that deed restrictions will be recorded to limit the number of lots to 280 single-family lots (with a clubhouse).

Public
Hearing
(C/Z
No. 1423)

Council was advised that the original application was for a Residential Planned Community - Assisted Living Project (Change of Zone No. 1379); the application was approved by Council on June 29, 1999, subject to conditions.

A site plan was submitted to Council deleting all multi-family units and proposing a single family subdivision. The applicant stated that they have changed the design of the project since assisted living projects are no longer as popular as they were in the past.

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

M 282 01
Adopt
Ordinance
No. 1458
(C/Z
No. 1423)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1458 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A HR/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A HR/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 76.69 ACRES, MORE OR LESS" (Change of Zone No. 1423) filed on behalf of Preston L. Dyer.

Motion Adopted: 4 Yea, 1 Abstention.

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

Findings
of Fact

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

1. The applicant established that the proposed use is located in a Development District.
2. The applicant established that the project is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1424)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 45,625 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1424) filed on behalf of Twin Cedar Apts., L.L.C.

Public
Hearing
(C/Z
No. 1424)
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on April 19, 2001, at which time they recommended that the application be denied due to the concern about some of the other uses permitted in a C-1 General Commercial District.

The Council found that William Mills; John Sergovic, Attorney; and Thea Beckton, First State Community Action, were present on behalf of the application. Mr. Sergovic advised that the applicant owns the adjoining property, which is zoned C-1 General Commercial and which is devoted to low-income housing. Council was informed that three apartment buildings are located on the adjoining property to house new immigrants in the area and that he proposes to build an office/shop/community center, and possibly a Laundromat and vending area in the future.

Mr. Sergovic informed Council that the original Public Hearing scheduled for this application was postponed due to inclement weather, after which time he wrote a letter to Mr. Lank, Director of Planning and Zoning, requesting that (since the rezoning application had to be readvertised) the application be amended to B-1 rather than C-1. Mr. Sergovic advised that Mr. Bayard's (County Attorney) ruling was that once a rezoning application has been advertised, Council can orally amend the title of the application to a "lesser included district".

Mr. Schrader, Assistant County Attorney, expressed his opinion that the request for B-1 zoning instead of C-1 zoning cannot be considered since it would significantly change the title of the Proposed Ordinance.

Public comments were heard in opposition to the application. The following concerns were expressed by the neighbors: constant parties; noise; vehicles in their yards; traffic; that police have to be called on a regular basis; that the site has always been an eyesore; that the septic system is failing; and that the owner has not done anything to alleviate the problems in the past. The Public Hearing was closed.

M 283 01
Adopt
Proposed
Ordinance
(C/Z
No. 1424)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 45,625 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1424) filed on behalf of Twin Cedar Apts., L.L.C.

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

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

Findings
of Fact

The Council found that the change of zone was not appropriate legislative action due to the fact that the application is for spot zoning; that the application is not near any town centers; that the high density development should not be located within a rural area; that there are problems with the infrastructure on-site; that a C-1 zoning district permits a multitude of uses; and that there would be a detrimental effect on the neighborhood.

Public
Hearing
(C/Z
No. 1432)

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.291 ACRES, MORE OR LESS" (Change of Zone No. 1432) filed on behalf of David A. Ritter.

A Public Hearing was held by the Planning and Zoning Commission on April 19, 2001, at which time they deferred action for the purpose of receiving additional information relating to permits and violation notices.

David Ritter, applicant, and Steve Parsons, Attorney, were present and stated that the application is for a rezoning for boat sales and service; that the site is located in a Development District; that the site is surrounded by other commercial and business uses; that DelDOT did not require a traffic study; that the applicant was unaware of any violations since the violation notice was sent to the previous owner of the property; that the previous owner lives in Las Vegas, Nevada; that the applicant apologizes for proceeding with his business without the appropriate approvals; that this is a zoning hearing and not a violation hearing; and that a zoning inspector did come to the property and merely advised that he was taking pictures for the file.

Council was advised of the violation notice issued on February 26, 2001 referencing the illegal placement of the fence, the boat-lift, and the construction of the garage addition. It was also noted that signage has been installed on the garage and erected along Long Neck Road without permits.

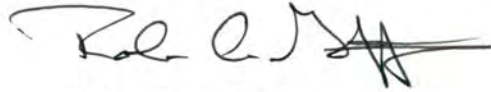
Public comments were heard in support of the application. There were no public comments in opposition to the application.

It was the consensus of Council to close the Public Hearing; to defer action; and to leave the record open for letters from (1) the Sussex County Building Code Department, (2) the State Fire Marshal's Office, and (3) the Sussex Conservation District.

M 284 01
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 5:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robin A. Griffith', with a stylized flourish at the end.

Robin A. Griffith
Clerk of the Council