

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 10, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 10, 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 339 03 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the
Approve Agenda by deleting "Approval of Minutes" and to approve the Agenda, as
Agenda 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- Mr. Griffin read the following correspondence:
spondence

BROWNIE TROOP #1126, OCEAN VIEW, DELAWARE.
RE: Letter in appreciation of grant.

M 340 03 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to authorize an
Authorize Executive Session to be held immediately following the conclusion of the
Executive morning session, for the purpose of discussing land acquisition.
Session

Motion Adopted: 5 Yea.

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

M 341 03 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt the
Adopt Tribute commending Chad Robert Culver for achieving the rank of Eagle
Tribute Scout.

Motion Adopted: 5 Yea.

**M 341 03
(continued)**

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

**M 342 03
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING SATURDAY, MAY 24, 2003, AS A DAY TO HONOR LEWES AND REHOBOTH BEACH VOLUNTEER FIRE COMPANIES".

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. Airport Meeting

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, June 25, 2003, at the Sussex County Administrative Office Building, West Complex, North DuPont Highway, Georgetown, Delaware, at 6:00 p.m. The media as well as the general public is welcome to attend.

2. Millville and Holts Landing Facilities Plan and Environmental Assessment

The Sussex County Engineering Department conducted a public meeting to review the findings of the Millville and Holts Landing Facilities Plan and Environmental Assessment on June 2, 2003, at the Millville Volunteer Fire Company. There were approximately 118 people in attendance. The record was left open for written comments until the close of business on June 20, 2003. The Engineering Department plans to make a recommendation to the Sussex County Council on sewer service for the Millville Planning Area by July 29, 2003.

**AS 400
Upgrade/
Bid
Recommen-
dation**

Mrs. Smith, Director of Data Processing, discussed the bid results for the AS400 Computer Upgrade, which were reported at the June 3, 2003 meeting, as follows:

Black Oak, Inc.	\$ 93,294.72
Callaghan Quinn Associates, Inc.	\$100,510.28
B. Donald Kimball, Inc.	\$101,754.00
IBM Direct	\$116,663.00

Mrs. Smith recommended that the County accept the bid from Black Oak Inc. for \$93,294.72. Black Oak will be upgrading the County's AS400 Mid-

**AS 400
Upgrade
(continued)**

Size Main Frame Computer by installing hardware and software to enhance the operation of the computer. Mrs. Smith advised that it has been four years since any enhancement to the AS400 has been installed and due to the growth of the County, it has become imperative that the upgrade be purchased.

**M 343 03
Award
Bid for
AS 400
Upgrade**

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council accepts the bid from Black Oak, Inc. in the amount of \$93,294.72 for the County's AS400 Computer Upgrade.

Motion Adopted: 5 Yea.

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

**Draft
Ordinance/
Environ-
mentally
Sensitive
Develop-
ment
District
Overlay
Zone**

Mr. Kautz, Land Use Planner, reviewed the Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING AN ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE". This amendment to the Zoning Ordinance creates a new overlay district, the boundaries of which are consistent with the Comprehensive Plan's Environmentally Sensitive Developing Area. The amendment does not change the permitted or prohibited uses of any underlying district. This amendment requires the applicant for certain types of development to first prepare a report and sketch plan. As part of the report/plan preparation process the developer is required to consider certain specific issues and the impact from the proposed development. The developer would then prepare a plan of development which mitigates any adverse impacts and which is consistent with the adopted Comprehensive Plan.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING AN ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE". The Proposed Ordinance will be advertised for Public Hearing.

**Old
Business
(C/Z
No. 1499)**

Council discussed Change of Zone No. 1499 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 70.03 ACRES, MORE OR LESS" (Change of Zone No. 1499) filed on behalf of Caldera – Indian River II, LLC.

**Old
Business
(C/Z
No. 1499)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2003 at which time they deferred action. On May 8, 2003 the Commission discussed the application and deferred action. On May 22, 2003 the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on May 13, 2003.

**M 344 03
Adopt
Ordinance
No. 1614
(C/Z
No. 1499)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1614 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 70.03 ACRES, MORE OR LESS" (Change of Zone No. 1499) filed on behalf of Caldera – Indian River II, LLC, with the following conditions:

1. The maximum number of dwelling units shall not exceed 56. These shall all be single family detached homes.
2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These amenities shall include a swimming pool, sidewalks on at least one side of all streets, street lighting and landscaping.
4. The development shall be served as part of the appropriate Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications and regulations.
5. The RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
7. Site plan review for the development shall be subject to approval of the Planning and Zoning Commission.
8. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications.
9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
10. 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

**M 344 03
(continued)**

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 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.

11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.
12. A fifty (50) foot buffer shall be provided from the State wetland line.
13. The applicant is encouraged to meet with the DNREC Parks Division to coordinate safeguards, such as deed restrictions or fencing, to minimize any impact on State lands.
14. No individual or community boat docks, piers, boardwalks or boat launching facilities for motorized boats shall be permitted.
15. The applicant shall comply with the conditions described in a May 5, 2003 letter from John Hughes, Secretary of DNREC, to the Sussex County Planning and Zoning Commission.
16. Road naming and addressing shall be approved by the Sussex County Addressing Department.
17. The Applicant shall meet with Indian River View Limited Partnership to coordinate reasonable safeguards such as a berm or fencing to minimize any hazard on the Indian River Limited Partnership borrow pit.

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. 1498)**

Council discussed Change of Zone No. 1498 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.93 ACRE, MORE OR LESS” filed on behalf of Gerald Richardson.

The Planning and Zoning Commission held a Public Hearing on this application on April 17, 2003 at which time they deferred action. On May 8, 2003 the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on May 6, 2003 at which time they deferred action.

Mr. Lank reported that a letter has been received from the applicant’s

**Old
Business
(continued)**

attorney, Steve Parsons, stating that, if Change of Zone No. 1498 is approved, Mr. Richardson has instructed their office to record a deed restriction on the property limiting its use to four townhouses.

**M 345 03
Adopt
Ordinance
No. 1615
(C/Z
No. 1498)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1615 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.93 ACRES, MORE OR LESS" (Change of Zone No. 1498) filed on behalf of Gerald Richardson.

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
Project/
Contract
Nos.
1 and 2**

Michael Izzo, County Engineer, discussed the Ellendale Sanitary Sewer District Project. He noted that the project consists of four construction contracts and that work on the first contract with George and Lynch is now complete. The second contract with Teal Construction is for the main pumping station and force main to Georgetown. Mr. Izzo advised that the Engineering Department is recommending substantial completion with George and Lynch. This is contingent upon Teal Construction starting up the pumping station successfully within the next two weeks. Mr. Izzo recommended that the County move forward with the two contracts allowing connections to begin July 1st. The remaining two contract areas will be phased in after July 1st.

**M 346 03
Grant
Substantial
Completion/
Ellendale
Sanitary
Sewer
District
Project/
Contract
No. 1/
George
and
Lynch**

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP, and the County Engineering Department, that the Sussex County Council grant substantial completion effective May 15, 2003 to George and Lynch, Inc. for Sussex County Project No. 89-16, Ellendale Sanitary Sewer Collection and Conveyance, Contract A, and that the final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yea.

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

**Wastewater
Facilities**

Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in Fairfield at Long Neck.

M 347 03
Approve
Agreements/
Fairfield
at Long
Neck

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 295, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Anderson Homes, LLC, for wastewater facilities to be constructed in Fairfield at Long Neck, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Joy Beach
Subdivision/
Community
Improve-
ments

Mr. McCabe, Director of Public Works, reported that the County has been petitioned by a majority of the property owners in Joy Beach Subdivision for Suburban Community Improvements to repave the streets in the development. Mr. McCabe advised that the total project cost is estimated at \$194,263.33.

M 348 03
Authorize
Election/
Joy Beach
Subdivision/
Suburban
Community
Improve-
ments

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes an election to be held at the Inland Bays Wastewater Treatment Facility, Long Neck, Delaware, between the hours of 9:00 a.m. – 6:00 p.m. on Saturday, July 12, 2003, for the purpose of allowing property owners and residents of Joy Beach Subdivision, Indian River Hundred, to consider the financing of Suburban Community Improvements as regulated under Title 9, Chapter 5, of the Delaware Code, and having an estimated total cost of \$194,263.33 and an estimated annual front footage cost of \$3.49 per front foot.

Motion Adopted: 5 Yea.

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

M 349 03
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$400.00 (\$80.00 from each Councilmanic Account) to the American Red Cross for the Volunteer Recognition Dinner on June 24, 2003.

Motion Adopted: 5 Yea.

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

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 GARAGES FOR

- Proposed Ordinance (continued)** **STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.071 ACRES, MORE OR LESS” (Conditional Use No. 1509) filed on behalf of Dwayne Mousley. The Proposed Ordinance will be advertised for Public Hearing.**
- 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 FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS (Conditional Use No. 1510) filed on behalf of Elmer G. Fannin. 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 A PRODUCE SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS” (Conditional Use No. 1511) filed on behalf of Anthony L. Freeman. The Proposed Ordinance will be advertised for Public Hearing.**
- Proposed Ordinance** **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS” (Change of Zone No. 1519) filed on behalf of Elmer G. Fannin. The Proposed Ordinance will be advertised for Public Hearing.**
- Proposed Ordinance** **Mr. Jones 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.5891 ACRES, MORE OR LESS” (Change of Zone No. 1521) filed on behalf of 1st State Storage Company. The Proposed Ordinance will be advertised for Public Hearing.**
- Proposed Ordinance** **Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY 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 22,500 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1520) filed on behalf of David Reichert and Rebecca LeBlanc. The Proposed Ordinance**

(continued) will be advertised for Public Hearing.

Citizen's Comments Mr. Kramer, Citizen, questioned Council on how an occupancy permit can be issued when an inspection was not made. Mr. Jones responded that he will look into the matter.

Senate Bill No. 66 Mr. Cole discussed Senate Bill No. 66 which would enable counties and municipalities to utilize Tax Increment Financing (TIF) and Special Development Districts to fund costs related to the impacts of development. It was noted that Council previously took a position not to oppose this legislation since it is enabling legislation and not a mandate.

Mr. Stickels advised that New Castle County has asked for an exemption from the legislation due to concerns that the public would consider the special districts an entitlement program for developers.

Mr. Baker explained that the TIF funding is obtained through the issuance of bonds; that these bonds are different than Industrial Revenue Bonds; that there is a moral obligation for the County to make good on these Bonds; that if the taxes/special fees are not available, legally the County does not have to make payments; however, if the County does not make payments, it would effect the County's General Obligation Bond rating and the County would be responsible for selling property to recover the money.

M 350 03 Oppose Senate Bill No. 66 A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council goes on record in opposition to Senate Bill No. 66 and further, that if the legislation is adopted, the Sussex County Council wishes to be exempt. The Sussex County Council authorizes the County Administrator to inform the sponsor of the legislation of the Council's position.

Motion Adopted: 4 Yea, 1 Nay.

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

Request Draft Ordinance Permitting Garage Apartments Mr. Cole presented a concept for a draft ordinance permitting garage apartments, with stipulations, in AR and MR Districts. Mr. Cole stated that benefits would include providing additional housing (rentals), additional income, etc. He noted that the apartments would only be allowed if there are no deed restrictions against it and if they are in compliance with all agency requirements.

Mr. Stickels advised that he will ask the County's Land Use Planner to review this issue

Correspondence Mr. Rogers advised that he received a letter from the Citizen's Coalition in reference to Change of Zone No. 1487.

M 351 03
Recess for
Executive
Session

At 11:40 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to recess and go into Executive Session for preliminary discussion of on-site acquisition for publicly funded capital improvements. Motion Adopted by Voice Vote.

Executive
Session

At 11:45 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussion land acquisition.

At 12:43 p.m., the Executive Session concluded.

M 352 03
Reconvene

At 12:44 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to reconvene the regular session. Motion Adopted by Voice Vote.

M 353 03
Recess

At 12:45 p.m., a Motion was made by Mr. Jones, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

At 1:40 p.m., Mr. Rogers called Council back into session.

Public
Hearing
(C/Z
No. 1503)

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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 139.32 ACRES, MORE OR LESS" (Change of Zone No. 1503) filed on behalf of RDM, Inc. (Warrington Properties, LLC).

The Planning and Zoning Commission held a Public Hearing on this application on May 22, 2003 at which time they deferred action. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as a part of the record of this Public Hearing.

Mr. Lank advised that no additional comments from any individual or agency have been received since May 22, 2003. Mr. Lank provided each Councilmember with a packet of information entitled "Warrington Creek" submitted by the applicant. Mr. Lank noted that the packet is a duplication of what was submitted to the Planning and Zoning Commission.

The Council found that Michael Lynn, President of RDM, Inc., was present with James Fuqua, Attorney; K. Scott Aja of McCrone, Inc.; Robert Rodgers and Derrick Kennedy of Orth-Rodgers Associates, Inc., and the Warrington brothers.

Council was advised that the application is for a MR-RPC for a development to be known as Warrington Creek located near the southerly end of Old Landing Road; that the application proposes a mixture of 106 single-family lots and 176 residential townhouses for a total of 282

**Public
Hearing
(C/Z
No. 1503)
(continued)**

residential units; that development will be phased in over three years; that the development should be completed in 2006; and that no commercial activity is being proposed in the development.

The applicant's presentation to Council was the same as that given to the Planning and Zoning Commission and the applicant's testimony was included in the written summary which was made a part of the record of this Public Hearing.

Public comments were heard. Mabel Granke commented that she is not in opposition to the application but she is concerned about the two intersections that have a Level of Service "F" and that they must be addressed now.

Mr. Fuqua advised that the applicant will meet the requirements of DelDOT, including funding an "equitable portion of a traffic signal" at the intersections.

Mike Tyler, President of Citizens Coalition, submitted and read a statement into the record. The statement included comments regarding the following concerns: that transportation infrastructure continues to lag behind development; that if this project is approved, it should be done contingent upon the installation of appropriate traffic signals at Warrington Road and Old Landing Road; that the cumulative impact of traffic (including traffic generated by WalMart and the 2,000 homes at Five Points) must be considered; that it is an "un-needed development"; that there is no driving economic force for more housing in the area; and that there will be a further decline of quality of life. Mr. Tyler commented on the difficulty cyclists already experience on Old Landing Road.

Additional comments were heard from Verde Watson, a resident of Old Landing Road, regarding traffic in the area and objecting to the townhouses, stating that it will set a precedent in the area.

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

**M 354 03
Defer
Action
on C/Z
No. 1503**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to defer action on Change of Zone No. 1503 filed on behalf of RDM, Inc. (Warrington Properties, LLC).

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1505)**

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

**Public
Hearing
(C/Z
No. 1505)
(continued)**

CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.407 ACRES, MORE OR LESS” (Change of Zone No. 1505) filed on behalf of Nanticoke Tribe #21/Improved Order of Redmen.

The Planning and Zoning Commission held a Public Hearing on this application on May 22, 2003 at which time they recommended that the application be approved. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and recommendation of approval. The summary was admitted as a part of the record of this Public Hearing.

The Council found that Merrill Moore and Art Mears, members of Tribe 21, were present with Tim Willard, Attorney. Mr. Willard stated that Tribe 21 has owned the 1.4 acre lot since 1959; that a portion of the building has been utilized by a automotive glass replacement business for approximately 15 years; that the remainder of the building provides space for meetings of Tribe 21; that the use is non-conforming and was established prior to zoning jurisdiction; and that the rezoning is appropriate since the site is in close proximity to other commercial, business, and industrial sites.

**M 355 03
Adopt
Ordinance
No. 1616
(C/Z
No. 1505)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1616 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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.407 ACRES, MORE OR LESS” (Change of Zone No. 1505) filed on behalf of Nanticoke Tribe #21/Improved Order of Redmen.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1506)**

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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.4 ACRES, MORE OR LESS” (Change of Zone No. 1506) filed on behalf of Delaware Pulpwood, Co.

The Planning and Zoning Commission held a Public Hearing on this application on May 22, 2003 at which time they deferred action. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s

**Public
Hearing
(C/Z
No. 1506)
(continued)**

Public Hearing. The summary was admitted as a part of the record of this Public Hearing.

The Council found that Tim Willard, Attorney; Robert Fitzgerald, owner; and Joe Webb, tenant, were present on behalf of the application. They stated that the site has been utilized as a pulpwood and firewood distribution site; that the use is non-conforming and was established prior to zoning jurisdiction; that the rezoning is appropriate since the site is in close proximity to other commercial, business, and industrial sites; that the rezoning is being requested so that a used car sales facility can be permitted on the site; and that the proposed use is less impacting than the previous pulpwood/firewood business since there will be no truck traffic, scales, or storage of wood products.

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

**M 356 03
Defer
Action
on C/Z
No. 1506**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on Change of Zone No. 1506 filed on behalf of Delaware Pulpwood Co.

Motion Adopted: 5 Yea.

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

**M 357 03
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:50 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



**Robin A. Griffith
Clerk of the Council**