

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 16, 2002

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, July 16, 2002, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
Dale R. Dukes	Member
Vance C. Phillips	Member
Robert L. Stickels	County Administrator
David B. Baker	Finance Director
Eugene H. Bayard	County Attorney

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

M 439 02 Amend & Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the agenda by deleting "Robert L. Stickels, County Administrator, 1. Introduction of a Proposed Ordinance relating to the Comprehensive Land Use Plan", and to approve the agenda, as amended.

Motion Adopted: 4 Yea, 1 Absent.

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

It was noted that a draft of the Land Use Plan must be attached to the Ordinance and copies will not be available until July 26, 2002, at a cost of \$10.00 per copy. Also available, but at no cost, will be an Executive Draft, approximately 4 pages in length, which will give highlights.

M 440 02 Amend Minutes of 7/09/02

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the minutes of the July 9, 2002 meeting to include Councilman Jones' reappointment of Layton Johnson to the Planning and Zoning Commission for a term of three years.

Motion Adopted: 4 Yea, 1 Absent.

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

M 441 02 Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of the July 9, 2002 meeting, as amended.

M 441 02
Approve
Amended
Minutes
(continued)

Motion Adopted: 4 Yea; 1 Absent.

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

Corre-
spondence

Mr. Bayard read the following correspondence:

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PA.

RE: Notice to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the following:

Applicant: City of Lewes Board of Public Works

Waterway: Lewes and Rehoboth Canal

Activity: The applicant proposes to install a 6" electrical conduit on the City of Lewes property via directional boring method to connect to an existing electrical conduit stub. The proposed work is part of an upgrade to the entire City of Lewes electrical system.

LISA WESTBROOK, CHAIRPERSON, FRIENDS OF THE DELAWARE
SPCA SUSSEX CHAPTER, REHOBOTH BEACH, DELAWARE.

RE: Thanking Council for their recent Councilmanic Grant.

PAM SCHELL, CHILDREN'S LIBRARIAN, DELMAR PUBLIC LIBRARY.

RE: Thanking Mr. Phillips for his recent Youth Activity Grant.

MARY K. CANNON, GEORGETOWN, DELAWARE.

RE: Thanking Brad Whaley, Rehabilitation Specialist with the County's Community Development and Housing Division, for the renovations made to her home.

Adminis-
trator's
Report

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

1. School Tax Rates

For the Council's convenience, I have included in this report the school tax rate for each school district in the County. Although the County government's tax rate has not increased, property owners will see an increase in the property tax bill they receive from the County because of the increase from five school districts. The tax rates are applied per \$100.00 of assessment based on 1974 construction values. School rates for FY '03 are as follows:

Woodbridge	Rate - \$2.913	\$.513 Increase
	Capitation Tax - \$8.82	\$1.12 Increase
Indian River	Non-Residential Rate - \$2.115	\$.28 Increase
	Residential Rate - \$2.029	\$.32 Increase
	Capitation Tax - \$12.00	No Increase

Adminis-
trator's
Report
(continued)

Cape Henlopen	Rate - \$2.099 Capitation Tax - 0	\$.118 Increase No Increase
Milford	Rate - \$2.749 Capitation Tax - \$28.90	\$.08 Increase No Increase
Seaford	Rate - \$2.47 Capitation Tax - \$21.10	\$.08 Increase No Increase
Laurel	Rate - \$2.39 Capitation Tax - \$24.30	No Increase No Increase
Vo-Tech	Rate - \$.2277 Capitation Tax - 0	No Increase No Increase
Delmar	Rate - \$3.23 Capitation Tax - \$13.00	\$.02 Decrease No Increase

2. Delaware Department of Transportation

The Delaware Department of Transportation (DelDOT) will be conducting a public hearing on the Capital Transportation Program for FY 2004 through FY 2009 on Thursday, September 12, 2002. The Sussex County meeting will be held at the DelDOT Georgetown Administration Building, Conference Room, South DuPont Highway and Bedford Street Extended. A workshop will take place from 6:00 to 7:00 p.m., with public comments being accepted at 7:00 p.m.

In addition to the requests that we have asked for in the past, I am in the process of compiling a list of secondary roads that should be seriously considered for upgrading. I have included a copy of this list with this report (said list is attached and has been made a part of these minutes). I would appreciate if any Councilmen have roads in their area that are in need of upgrading more than the normal resurfacing, that you submit these roads to me by the first week in August.

I believe that in addition to the roads that are currently on the CIP list, a comprehensive transportation upgrade to the roads included with this report is also necessary if we are going to be able to keep up with the growth that we have been experiencing.

3. Proposed South Ocean View Sanitary Sewer District

A referendum for the proposed South Ocean View Sanitary Sewer District will be held on Saturday, July 20, 2002, from 8:00 a.m. to 2:00 p.m. at the Lord Baltimore School, Route 26, Ocean View. Anyone unable to vote in person at the referendum may obtain an absentee ballot from the County's Planning and Permits Division in the Engineering Department.

The South Ocean View Sanitary Sewer District will utilize the South Coastal Regional Wastewater Treatment Facility for treatment. The County will develop a collection and transmission system.

Adminis-
trator's
Report
(continued)

Typical annual bills for the proposed district are:

50 FF with home	\$ 679.00/year
75 FF with home	\$ 906.00/year
100 FF with home	\$1,133.00/year

The estimated construction cost of the project, including legal, administration, engineering, and other related items, is \$5.7 million. We are anticipating financing the project through a loan from the State of Delaware Water Pollution Control Revolving Fund.

C-Grade
Dwelling
Procedure

Mr. Eddy Parker, Director of Assessments, appeared before Council regarding the County's current C-Grade Dwelling Procedure. Mr. Parker informed Council that due to lower mortgage interest rates, the County has seen a significant increase in requests for the change of a mobile home to a C-Grade dwelling. Since January of 2002, the Assessment Office has issued approximately 550 letters for these C-Grade Dwelling changes. For a manufactured home to qualify as a C-Grade dwelling, it must be at least 20 feet wide, have an A-roof, as well as conventional type siding and solid block foundation. It is Mr. Parker's recommendation that the Council consider charging an appropriate fee for this service based on the amount of time that County staff is devoting to this service.

At the recommendation of Councilman Phillips, Mr. Parker was requested to prepare a cost analysis showing the County's cost in processing these requests versus any increased revenue realized through property taxes. It was the consensus of the Council that this item be placed back on the agenda next week.

Beneficial
Acceptance
Kinsale
Glen

Mr. Green, Director of Utility Construction, presented Council with a Fact Sheet regarding the beneficial acceptance for the project known as Kinsale Glen, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 442 02
Grant
Beneficial
Acceptance
Kinsale
Glen

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 233, that the Sussex County Council grant "Beneficial Acceptance" for the wastewater facilities constructed in "Kinsale Glen", lots 1 through 36, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 3 Yea; 1 Abstention; 1 Absent.

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

Beneficial
Acceptance
Carpenter's
Crossing

Mr. Green, Director of Utility Construction, presented Council with a Fact Sheet regarding the beneficial acceptance for the project known as Carpenter's Crossing, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 443 02
Grant
Beneficial
Acceptance
Carpenter's
Crossing

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 211, that the Sussex County Council grant "Beneficial Acceptance" for the wastewater facilities constructed in "Carpenter's Crossing", located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 4 Yea; 1 Absent.

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

Beneficial
Acceptance
Beebe
Health

Mr. Green, Director of Utility Construction, presented Council with a Fact Sheet regarding the beneficial acceptance for the project known as Beebe Health Campus, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 444 02
Grant
Beneficial
Acceptance
Beebe
Health
Campus

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 212, that the Sussex County Council grant "Beneficial Acceptance" for the wastewater facilities constructed in "Beebe Health Campus", located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 4 Yea; 1 Absent.

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

Bid Results/
Airport
Snow
Removal
Equipment

Mr. Frank Shade, Director of Purchasing, reported on the July 8, 2002 bid opening for Airport Snow Removal Equipment. The results of the bid opening are as follows:

I. G. Burton Chevrolet	\$43,231.00
Sansone Chevrolet/Fleet Motors	No Bid

M 445 02
Accept Bid
for Airport
Snow
Removal
Equipment

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accept the bid of I. G. Burton Chevrolet in the amount of \$43,231.00 for the purchase of a one-ton truck as specified with dump body, snow plow and sand spreader for use at the Sussex County Airport, pending FAA and DelDOT approval.

Motion Adopted: 4 Yea; 1 Absent.

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

Old
Business
(C/U No.
1430)
Rose
Cartwright

Council discussed Conditional Use No. 1430 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO STORE CONSTRUCTION EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 4.8507 ACRES OF A 23.597 ACRE TRACT" (Conditional Use No. 1430) filed on behalf of Rose Aileen Cartwright.

The Planning and Zoning Commission held a Public Hearing on December 13, 2001, at which time action was deferred. On January 24, 2002, the Commission discussed this application under Old Business and it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that the application be denied based on the concerns of Mr. Johnson that he had inspected the site several times since the public hearing; that during the public hearing Mr. Cartwright stated that he would clean up the site; that there has been no sign of any clean-up activity; that there may even be more material stored on the site; and that the Nanticoke Home has not been removed from the site.

The Sussex County Council held a Public Hearing on January 8, 2002, at which time it was the consensus of Council to recess the Public Hearing due to the applicant not being present. The record of the Planning & Zoning Commission was made part of the record of the Council's Public Hearing.

Proposed conditions were reviewed by Mr. Stickels.

M 446 02
Adopt
Proposed
Ordinance
(C/U
No. 1430)
DENIED

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO STORE CONSTRUCTION EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 4.8507 ACRES OF A 23.597 ACRE TRACT" (Conditional Use No. 1430) filed on behalf of Rose Aileen Cartwright, with 8 proposed conditions.

Motion Denied: 2 Nay; 1 Absent; 2 Yea.

Vote by Roll Call: Mr. Phillips, No; Mr. Cole, Absent;
Mr. Dukes; Yea; Mr. Rogers, No;
Mr. Jones, Yea

Findings
of Fact

The Council found that the conditional use was not appropriate legislative action based on the record and recommendation of the Planning & Zoning Commission.

Old
Business
(C/U
No. 1437)

Council discussed Conditional Use No. 1437 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DEMOLITION OF MANUFACTURED HOMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING

Old
Business
(C/U
No. 1437)
Jimmie
McWilliams
(continued)

AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 5.74 ACRES, MORE OR LESS" (Conditional Use No. 1437) filed on behalf of Jimmie L. McWilliams.

The Planning and Zoning Commission held a Public Hearing on January 24, 2002, at which time action was deferred. On February 14, 2002, the Commission discussed this application under Old Business, and it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that it be approved with 5 stipulations.

The Sussex County Council held a Public Hearing on February 12, 2002, at which time the Public Hearing was closed and action deferred. The record of the Planning & Zoning Commission was incorporated into the record of the Council's Public Hearing.

M 447 02
Adopt
Ordinance
No. 1549
(C/U
No. 1437)
Jimmie
McWilliams

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adopt Ordinance No. 1549 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DEMOLITION OF MANUFACTURED HOMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 5.74 ACRES, MORE OR LESS" (Conditional Use No. 1437) filed on behalf of Jimmie L. McWilliams, subject to the following conditions:

1. Business hours shall be from 7:00 a.m. to 7:00 p.m. Monday thru Saturday, with no Sunday hours.
2. Leyland Cypress trees shall be planted around the perimeter of the site to screen the site from neighboring properties. The trees, when planted, shall be no shorter than 3-feet in height. All dead trees shall be replaced annually.
3. One unlighted ground sign, not exceeding 2' x 4' per side or facing may be permitted.
4. No onsite display or sales of any kind shall be permitted.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 4 Yea; 1 Absent.

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

Findings
of Fact

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

Findings
of Fact
(C/U
No. 1437)

1. The applicant established by substantial evidence that the proposed use will serve a countywide need, without adverse impact of any sort, consistent with the purposes and goals of the Comprehensive Land Use Plan.
2. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Old
Business
(C/U
No. 1438)
State of
Delaware
(DelDOT)

Council discussed Conditional Use No. 1438 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR CONTINUATION OF CONDITIONAL USE NO. 992 AND CONDITIONAL USE NO. 1114 (BORROW PITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.40 ACRES, MORE OR LESS" (Conditional Use No. 1438) filed on behalf of the State of Delaware - Department of Transportation.

The Planning and Zoning Commission held a Public Hearing on January 24, 2002, at which time action was deferred, and the Commission asked staff to seek permission to review and inspect the site. On February 14, 2002, the Commission discussed the application under Old Business and it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that it be approved with the stipulation that the 20 stipulations of Conditional Use No. 992 remain in force and effect, with the exception of stipulation No. 13, which is amended to read "All materials will be removed by drag line, crane, or excavator". This Conditional Use shall terminate ten years from the date of approval.

The Sussex County Council held a Public Hearing on February 12, 2002, at which time the Public Hearing was closed and action deferred. The record of the Planning & Zoning Commission was incorporated into the record of the Council's Public Hearing.

M 448 02
Adopt
Ordinance
No. 1550
(C/U No.
1438)
State of
Delaware
(DelDOT)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adopt Ordinance No. 1550 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR CONTINUATION OF CONDITIONAL USE NO. 992 AND CONDITIONAL USE NO. 1114 (BORROW PITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.40 ACRES, MORE OR LESS" (Conditional Use No. 1438) filed on behalf of the State of Delaware - Department of Transportation, subject to the following conditions, as amended:

1. The borrow pit shall only be utilized by the State Highway Department.
2. All handling and hauling shall be performed on weekdays, during daytime hours, unless there is an emergency.
3. Dust control shall be implemented when needed.

M 448 02
(continued)

4. The State will maintain the roadway serving the site from Route 70.
5. Some materiel may be stockpiled on the site.
6. As digging is completed in an area, that area will be reclaimed.
7. The first area to be dug will be to the rear portion of the site.
8. No materials will stored on any access roads or buffer areas.
9. Markers will be placed at all borrow pit corners.
10. No fuel shall be stored on-site.
11. No stumps, branches, or debris will be buried on-site.
12. No dredging of materials will be allowed.
13. All materials will be removed by drag line, crane, or excavator.
14. The pit shall not exceed ten feet in depth below the water line.
15. Four life preserves shall be stored on-site.
16. Dry fire hydrants shall be installed.
17. Site shall be fenced; type and style at the discretion of the State Highway Department.
18. Materials removed from the site shall be utilized only in Sussex County.
19. The Planning and Zoning Commission shall review, comment, and approve or disapprove the site plan.
20. This Conditional Use shall terminate ten years from the date of approval.

Motion Adopted: 4 Yea; 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 by substantial evidence that the proposed use is an extension of 2 existing conditional uses and will have no adverse impact of any sort.

Findings
(continued)

2. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Old
Business
(C/U
No. 1448)
Dick
Ennis, Inc.

Council discussed Conditional Use No. 1448 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODEL HOME SALES OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1448) filed on behalf of Dick Ennis, Inc.

The Planning and Zoning Commission held a Public Hearing on March 21, 2002 at which time it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that the application be denied based on the record of opposition, safety concerns, and the recommendations of DelDOT.

The Sussex County Council held a Public Hearing on April 16, 2002, at which time the Council deferred action and left the public record open for the purpose of obtaining a response from DelDOT on the new entrance/exit proposal; and that the record would remain open for a period of 45 days (30 days to hear from DelDOT and 15 days for public response to DelDOT's comments). The record of the Planning and Zoning Commission was incorporated into the record of the Council's Public Hearing.

Mr. Lank read into the record a May 21, 2002 letter addressed to him, from James Waehler, Esquire, on behalf of the applicant. Also read into the record was a letter of response to the County, dated May 7, 2002, received from Mr. David DuPlessis of DelDOT. Proposed conditions were reviewed by Mr. Stickels.

M 449 02
Adopt
Proposed
Ordinance
(C/U
No. 1448)
DENIED

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adopt a Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODEL HOME SALES OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1448) filed on behalf of Dick Ennis, Inc., with 5 proposed conditions.

Motion Denied: 4 Nay; 1 Absent.

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

Findings
of Fact

The Council found that the conditional use was not appropriate legislative action based on the record and recommendation of Planning & Zoning Commission, it

Findings
(continued) would violate the County's Memorandum of Understanding with the Department of Transportation, traffic concerns, as well as concerns raised by the public,.

Old
Business
(C/U
No. 1453)
Joseph
Bowman Council discussed Conditional Use No. 1453 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A USED CAR SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Conditional Use No. 1453) filed on behalf of Joseph E. Bowman, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on May 9, 2002, at which time the Commission deferred action. On June 13, 2002, the Commission discussed the application under Old Business and it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that the application be denied based on concerns raised by Mr. Wheatley that he anticipates traffic problems at this location, and that he has concerns about the site plan and the application.

The Sussex County Council held a Public Hearing on June 4, 2002 at which time the Public Hearing was closed and action deferred. The record of the Planning and Zoning Commission was incorporated into the record of the Council's Public Hearing.

Proposed conditions were reviewed by Mr. Stickels.

M 450 02
Adopt
Proposed
Ordinance
(C/U No.
1453)
DENIED A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adopt a Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A USED CAR SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Conditional Use No. 1453) filed on behalf of Joseph E. Bowman, Jr., with 3 proposed conditions.

Motion Denied: 4 Nay; 1 Absent.

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

Findings
of Fact The Council found that the conditional use was not appropriate legislative action based on the record and recommendation of the Planning & Zoning Commission and traffic safety concerns for the area.

Old
Business
(C/U
No. 1454) Council discussed Conditional Use No. 1454 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICES WITH SMALL WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND

Old
Business
(C/U
No. 1454)
Richard
Quill
(continued)

LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.061 ACRES, MORE OR LESS" (Conditional Use No. 1454) filed on behalf of Richard M. Quill.

The Planning and Zoning Commission held a Public Hearing on this application on May 23, 2002 and action was deferred. On June 27, 2002, the Commission discussed the application under Old Business, and it was their unanimous recommendation that the application be forwarded to the Sussex County Council with the recommendation that it be denied based on the following concerns: (1) The proposed use of the property is for medical offices that typically generate high volumes of traffic and because of DelDOT's concerns about increasing traffic with poor levels of service during summer peak hours on State Route 1, Road 268 and Road 268A, the project will likely increase traffic congestion adjacent to or near the project; (2) The proposed entrance to the project is located south of the intersection of Road 268 and 268A and is offset approximately 100-feet from the entrance to Carpenter's Crossing, thus creating a concern about safe vehicular movement adjacent to or near the project; (3) The applicant proposed a small warehouse building to be used as a storage facility for equipment to be used in the maintenance of the project. This building is unnecessarily large for the proposed project.

The Sussex County Council held a Public Haring on June 11, 2002, at which time the Public Hearing was closed and action deferred. The record of the Planning and Zoning Commission was incorporated into the record of the Council's Public Hearing.

Proposed conditions were reviewed by Mr. Stickels.

M 451 02
Adopt
Proposed
Ordinance
(C/U
No. 1454)
DENIED

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to adopt a Proposed Ordinance entitled, " AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICES WITH SMALL WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.061 ACRES, MORE OR LESS" (Conditional Use No. 1454) filed on behalf of Richard M. Quill, with 5 proposed conditions.

Motion Denied: 3 Nay; 1 Yea; 1 Absent.

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

Findings
of Fact

The Council found that the conditional use was not appropriate legislative action based on the record and recommendation of the Planning & Zoning Commission.

M 452 02
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250 (\$125 each from Mr. Phillips' and Mr. Dukes' Councilmanic Accounts) to the

- M 452 02
Council-
manic
Grant/
Laurel
Wrestling
Boosters
(continued)
- Laurel Wrestling Boosters to help defray expenses incurred to attend a competition to be held in North Dakota.
- Motion Adopted: 4 Yea; 1 Absent.
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- M 453 02
Recess
- At 11:15 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.
- Reconvene
- Mr. Jones called Council back into session at 1:30 p.m.
- Order of
Public
Hearings
- Mr. Bayard announced that the order of the public hearings for the afternoon would be rearranged as follows: Conditional Use No. 1458, Conditional Use No. 1457, followed by the three other hearings as listed on the Agenda.
- Public
Hearing
(C/U
No. 1458)
Indian
River
Vol. Fire
Co., Inc.
- A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EXPANSION TO AN EXISTING FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY; CONTAINING 2.013 ACRES, MORE OR LESS" (Conditional Use No. 1458) filed on behalf of Indian River Vol. Fire Co., Inc.
- The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2002. The Commission recommended that the application be approved with one stipulation.
- The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.
- The Council found that Patrick Miller, President of the Indian River Volunteer Fire Company, Inc., was present on behalf of the application and stated in his presentation that they propose to double the size of the fire station; that the existing fire station will be converted to a meeting hall; and that the addition will be utilized for engine bays and will accommodate four additional engines.
- By a show of hands, there were seven people present in support of the application. There was no one was present in opposition.
- The Public Hearing was closed.
- M 454 02
Adopt
Ordinance
No. 1551
- A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 1551 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EXPANSION TO AN EXISTING FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX

M 454 02
Adopt
Ordinance
No. 1551
(C/U
No. 1458)
Indian
River
Vol.
Fire Co.,
Inc.
(continued)

COUNTY, CONTAINING 2.013 ACRES, MORE OR LESS" (Conditional Use No. 1458) filed on behalf of Indian River Vol. Fire Co., Inc., with the following condition:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 by substantial evidence that the proposed use will serve a public safety need in the community, consistent with the purposes and goals of the Comprehensive Land Use Plan, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1457)
State of
Delaware
Department
of Motor
Vehicles

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 PUBLIC GOVERNMENTAL BUILDING AND USE (REPLACEMENT OF DEPARTMENT OF MOTOR VEHICLES BUILDING) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 31.53 ACRES, MORE OR LESS" (Conditional Use No. 1457) filed on behalf of State of Delaware Department of Motor Vehicles.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2002. The Commission recommended that the application be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Peter Obele, architect for the project, was present on behalf of the application and stated in his presentation that the existing facility will remain in operation while the addition is being constructed; that the proposed building is similar to the recently completed New Castle inspection facility; that there will be a total of seven lanes; and that the new facility will be more functional and better serve the public.

Public
Hearing
(continued)

There was no one present in support of or opposition to the application.

Mr. Dukes questioned if any consideration had been given by the State to the suggestion approximately three years ago that a facility be located on the east side of the County to serve this heavily populated area. Since the current facilities are under capacity, it would seem that this would be an option and possibly more feasible than expanding the current facilities in Georgetown. Mr. Obele was unable to address this question.

The Public Hearing was closed.

M 455 02
Defer
Action
(C/U
No. 1457)
State of
Delaware
Department
of Motor
Vehicles

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to defer action on Conditional Use No. 1457, filed on behalf of the State of Delaware Department of Motor Vehicles, for a period of two weeks to allow for the exchange of correspondence between Sussex County and the Department of Motor Vehicles to see if there would be any interest by the State in investigating the feasibility of locating a facility on the east side of Sussex County to serve that area.

Motion Adopted: 4 Yea, 1 Absent.

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

Public
Hearing
(C/U
No. 1455)
National
Concrete
Products

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 AN AMENDMENT TO CONDITIONAL USE NO. 241 BY ADDING ADDITIONS TO EXISTING BUILDINGS AND RELOCATION OF THE STORAGE AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 6.23 ACRES, MORE OR LESS" (Conditional Use No. 1455) filed on behalf of National Concrete Products, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2002, at which time action was deferred; on July 11, 2002, the Commission recommended approval with stipulations.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that James Fuqua, Attorney, and Gus Croll, were present on behalf of the application and stated in their presentation that the site is in a Development District; that the property was purchased by National Concrete Products, L.L.C., in June of 2000; that the site has been used for manufacturing since November of 1974 upon receipt of approval for Conditional Use No. 241; that originally Nanticoke Homes built modular homes on the site; that the use was converted to a concrete operation by Nanticoke Homes when Nanticoke Homes built the modular homes manufacturing plant on U.S. Route 13; that they propose

Public
Hearing
(C/U
No. 1455)
(continued)

to build a 65-foot by 150-foot addition for manufacturing and a 20-foot by 15-foot addition to the office building; that outside storage of the finished product is proposed between the new building and Route 16; that the new building will be used to pour concrete molds and for curing indoors rather than outside; that only one entrance will be used; and that they plan to landscape along Route 16.

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

M 456 02
Adopt
Ordinance
No. 1552
(C/U
No. 1455)
National
Concrete
Products

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 1552 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USE NO. 241 BY ADDING ADDITIONS TO EXISTING BUILDINGS AND RELOCATION OF THE STORAGE AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 6.23 ACRES, MORE OR LESS" (Conditional Use No. 1455) filed on behalf of National Concrete Products, L.L.C., with the following conditions:

1. Limit entrances to one, the wide entrance being used at the present time off of Route 16; all other entrances to be closed along Route 16 to the above described property.
2. Buffer planting along Route 16 to be done as noted in the minutes of the Public Hearing of the Planning and Zoning Commission dated June 27, 2002.
3. All previous restrictions to be deleted since the use has changed.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact
(C/U
No. 1455)

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

1. The applicant established by substantial evidence that the proposed use is an expansion of Conditional Use No. 241 and is a result of the success of a long-time local business and its need to grow. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein, including the elimination of the con-

Findings
(continued)

ditions attached to Conditional Use No. 241, to be replaced with the conditions stated above.

Public
Hearing
(C/U
No. 1456)
Boyd
Taylor

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 REPAIRS TO SMALL BOATS, BOAT TRAILERS, BOAT MOTORS AND SMALL ENGINES, AND RESALE OF BOATS, TRAILERS, AND BOAT MOTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS" (Conditional Use No. 1456) filed on behalf of Boyd Taylor.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2002, at which time action was deferred; on July 11, 2002, the Commission recommended that the application be denied due to concerns regarding commercial conditional uses in recorded subdivisions, that conditional uses run with the land and not the applicant, and that a precedent could be set.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Bayard questioned if Craigs Mill Heights Subdivision, the site of this application, contains any restrictive covenants. Mr. Lank stated that he is not aware of any restrictive covenants pertinent to this subdivision.

The Council found that Boyd Taylor was present on behalf of his application and stated in his presentation that he has worked in the boat business for 22 years; that he has been operating the business on this site for one year; that he did receive a violation prior to making application; that he may have ten to 14 boats stored in the area at one time, nine of which are his own; that most of his work is performed off-site at marinas or customers' homes; that noise on the site is no louder than a grass-cutter engine; that waste oils are stored in plastic containers and taken to the recycling center; that the proposed building measures 50 feet by 60 feet; that he has worked for Sturgis Marine and Walker Marine; and that he does motor testing in a tank outside of his existing garage.

Mr. Taylor submitted for the record a listing of nine boats that he owns which are currently stored on his property.

Craig Moore and Frank Caudill were present and spoke in support of the application stating that Mr. Taylor is a good neighbor, noise from the business is very minimal, and they have no objections to this application being approved.

Donald Ferreira was present and spoke in opposition to the application expressing concerns regarding traffic, noise, boat trailers being parked along the street, that the use is a nuisance to neighbors, that he retired to the area to get away from business uses, and that the site is within a residential subdivision. Mr. Ferreira submitted for the record photographs of vehicles parked in the street, vehicles blocking his entrance, and boat trailers parked along the street.

(continued)

The Public Hearing was closed.

M 457 02
Defer
Action
(C/U
No. 1456)
Boyd
Taylor

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to defer action on Conditional Use No. 1456, filed on behalf of Boyd Taylor, to allow the County Attorney and Director of Planning and Zoning time to examine the recorded plot of the Craigs Mill Heights Subdivision to determine if there are any restrictive covenants which would prevent this conditional use from taking place and then report back to Council.

Motion Adopted: 4 Yea; 1 Absent.

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

Public
Hearing
(C/Z
No. 1473)
Preston
Lynch
Dyer

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 AND 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 81.93 ACRES, MORE OR LESS" (Change of Zone No. 1473) filed on behalf of Preston Lynch Dyer.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2002, at which time action was deferred; on July 11, 2002, the Commission recommended approval.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Preston Dyer was present on behalf of this application and stated in his presentation that the proposed RPC overlay includes an additional six acres; that they changed their original plans based on a market study; that they originally proposed 280 age-restricted lots; that they now propose 127 single-family detached lots and 137 age-restricted single-family detached lots at the northerly end of the site; that the common area has doubled in size from 8.5 acres to 16.67 acres; that the density has changed from 3.64 units per acre to 3.22 units per acre; that they met with the Woodlyn Estates Homeowners Association and have prepared a declaration of restrictions to limit the project to 264 units and to establish 20-foot wide forested buffers along Woodlyn Estates; that they may build two different clubhouses, to include exercise rooms and conference rooms, since they are proposing two different lifestyles in the project; that they may build a senior center; that the project will contain walking trails and wildlife areas; that the wetlands have been delineated; and that the project will be served with public sewer and central water from Tidewater Utilities.

Public
Hearing
(C/Z
No. 1473)
Preston
Lynch
Dyer
(continued)

Mr. Dyer submitted for the record a Declaration of Covenants, Conditions and Restrictions in reference to the application and letters of support from David B. DuPlessis, Assistant Director, Development Coordination, Delaware Department of Transportation, and the Woodlyn Estates Homeowners Association.

Mr. Bayard read a letter of support into the record from Kitty Davis of Millsboro, Delaware.

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

M 458 02
Adopt
Ordinance
No. 1553
(C/Z
No. 1473)
Preston
Lynch
Dyer

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1553 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND 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 81.93 ACRES, MORE OR LESS" (Change of Zone No. 1473) filed on behalf of Preston Lynch Dyer, with the following conditions:

1. The maximum number of units shall not exceed 264 single-family lots.
2. There shall be no commercial activities on the site.
3. All entrances, intersections, roadway improvements, and multi-modal facilities shall be constructed as required by DelDOT.
4. The RPC shall be served by a Sussex County sanitary sewer district.
5. The RPC shall be served by a 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. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
8. All wetlands shall be created in common areas.
9. 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

M 458 02
Adopt
Ordinance
No. 1553
(C/Z
No. 1473)
Preston
Lynch
Dyer
(continued)

submission of a bond in an amount equal to 125 percent of the cost of the site work authorized by the Sussex Conservation District permits 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.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact
(C/Z
No. 1473)
Preston
Lynch
Dyer

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

1. The applicant established that this change of zone is a reconfiguration of an existing change of zone (Change of Zone No. 1423) with six acres of land, more open space, and reduced density, all consistent with the purposes and goals of the Comprehensive Land Use Plan, without adverse impact of any sort, and in fact with small positive impact.
2. The proposed construction of age-restricted residences will serve a growing need in Sussex County.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

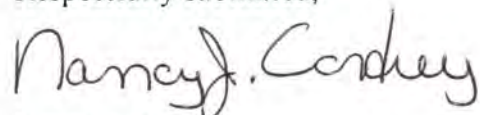
Patrolling
Railroad
Avenue

Mr. Stickels forewarned Council that the Georgetown Police Department is heavily patrolling Railroad Avenue leading to the Sussex County Airport and reminded everyone that the speed limit is 25 miles per hour on this road.

M 459 02
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to adjourn at 2:47 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Nancy J. Cordrey
Assistant Clerk of the Council



Susan W. Webb
Acting Clerk of the Council