

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 14, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 14, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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|-----------------------------|-----------------------------|
| 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 565 03 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the
Approve
Agenda

Motion Adopted: 5 Yea.

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

M 566 03 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve the
Approve
Minutes

Motion Adopted: 5 Yea.

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

University The County Council presented a check in the amount of \$160,206.00 to the
of Delaware/
Revenue University of Delaware Research & Education Center, Sussex County
Sharing Cooperative Extension Program, for programs to benefit local farmers and
Grant the poultry industry. The check represented a donation of \$110,206.00 to
the Extension Program and \$50,000 to the Poultry Production Efficiency
Program. Dr. Mark Isaacs was present and provided a synopsis of how the
funding will be used: 4-H Program, poultry research, crop research,
Lasher Lab, Poultry Engineer position, research at new poultry houses, etc.

**Dr. Isaacs thanked Council for their continued support and advised that
without the County Council's support, many programs could not continue,
since federal funding is not available for some of the research projects.**

**Adminis-
trator's
Report**

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

1. Beneficial Acceptance – Estates of Sea Chase

The Sussex County Engineering Department granted Beneficial Acceptance for the Estates of Sea Chase in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Agreement No. 260, on October 3, 2003. Included with this report is a copy of the fact sheet for this project.

2. US 113 North/South Study

The Delaware Department of Transportation will be conducting three Public Workshops to investigate the overall planning process for the US 113 corridor, which runs from the vicinity of Route 1 north of Milford to the Delaware/Maryland state line. Residents of Sussex County are encouraged to attend one of the three upcoming workshops. All meetings will take place from 4:00 to 7:00 p.m., with a brief presentation scheduled for 4:30 p.m. and repeated at 5:30 p.m. and 6:30 p.m. The workshop locations are:

Milford Area

Tuesday, October 21, 2003

Milford High School Cafeteria, Milford

Georgetown Area

Wednesday, October 22, 2003

DelTech Owens Campus

William A. Carter Partnership Center, Room 540

Millsboro Area

Thursday, October 23, 2003

Indian River High School Cafeteria, Dagsboro

3. Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to solicit public input on proposed changes to Bridge 210 on Sussex Road 487 over Gum Branch. The meeting will be held on Wednesday, October 29, 2003, at the Bethel United Methodist Church Community House, Main Street, Bethel, Delaware. The public is invited to attend between 4:00 and 7:00 p.m.

The proposed project includes replacing three corrugated metal pipes with a precast concrete box culvert bridge, placing riprap, and slightly realigning the approach roadway. The roadway will be widened from 18 feet to 24 feet. It is proposed that the road will be closed during construction.

**Administrator's
Report
(continued)**

4. County Council Schedule

The County Council will meet at 6:30 p.m. on Tuesday, October 21, 2003. It should be noted that there are no Planning and Zoning public hearings scheduled for that evening.

Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in The Village at Bear Trap Dunes, Phase 3B.

**Wastewater
Facilities**

**M 567 03
Authorize
Execution
of Agree-
ments/The
Village at
Bear
Trap
Dunes**

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. 314, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Freeman Communities, for wastewater facilities to be constructed in The Village at Bear Trap Dunes, Phase 3B, located in the South Bethany 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**

**M 568 03
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to the Dagsboro Church of God for the Thanksgiving for Thousands Program.

Motion Adopted: 5 Yea.

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

The grant request from the Beebe Medical Foundation was tabled.

**M 569 03
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$250.00 (\$50.00 from each Youth Activity Grant Account) to the Delaware 4-H Foundation for the Century Club Endowment Campaign.

Motion Adopted: 4 Yea, 1 Absent.

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

(Mr. Cole was out of the room during the vote.)

It was noted that the funding request was for a 5-year pledge to support the Century Club Endowment; however, Council's Motion to provide \$250.00 is

M 569 03 for this year only. Funding in future years will be considered annually
(continued) pending receipt of a request from the Delaware 4-H Foundation.

M 570 03 At 10:35 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips,
Recess to recess until 11:00 a.m. Motion Adopted by Voice Vote.

Reconvene Mr. Rogers called Council back into session at 11:05 a.m.

Public A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing/ ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX
Proposed COUNTY TO ALLOW A BIOTECH INDUSTRY AND A BIOTECH
Ordinance/ CAMPUS AS A CONDITIONAL USE IN THE AGRICULTURAL
Biotech RESIDENTIAL ZONING DISTRICT AND TO DEFINE BIOTECH
Industry INDUSTRY AND BIOTECH CAMPUS".

and
Biotech The Planning and Zoning Commission held a Public Hearing on this
Campus Proposed Ordinance on September 25, 2003 at which time the Commission
deferred action to allow time for the staff to confer with the Department of
Agriculture on their comments which were expressed and included in the
comments received from the Office of State Planning Coordination.

Mr. Lank, Director of Planning and Zoning, read a summary of the
Commission's Public Hearing. The summary was admitted as part of the
record of this Public Hearing.

Mr. Lank reported that Mr. Rick Kautz and Mr. Tom Shafer met with
representatives from the Department of Agriculture and developed some
corrections in the wording of the Proposed Ordinance. On October 9, 2003
the Planning and Zoning Commission was provided with a copy of the
Proposed Ordinance with the recommended changes. They deferred action
again.

Mr. Kautz distributed a revised version of the Proposed Ordinance showing
the recommended changes. Mr. Shafer noted that there were a few minor
editing comments; that recommended additions were inserted in capital
letters; and that recommended deletions have a line drawn through the
wording. (Copy Attached to Minutes.) Mr. Shafer noted that the
Department of Agriculture supports the Proposed Ordinance, with the
recommended changes.

Mr. Kautz noted that this amendment is a direct result of recommendations
contained in the Comprehensive Plan.

Mr. Phillips suggested that this use be permitted without going through the
process of a Public Hearing and that possibly an overlay zone could be
created for this agriculture-related industry. Mr. Cole responded that he
believes Council should respect the opportunity of the public to be able to
participate.

**Public
Hearing
(continued)**

Public comments were heard. Mr. Rich Collins of the Positive Growth Alliance made the following comments: that he supports the concept of the Proposed Ordinance; that he disagrees with DNREC regarding using only native vegetative species and that this should be looked at on a case by case basis; that he doesn't understand the reasoning behind a BioTech Campus requiring at least 20 acres under one ownership; and that he does not believe that a BioTech Campus should have to be visually and acoustically screened.

Mr. Dan Kramer commented that the requirement of 20 acres is excessive.

It was noted that the 20-acre requirement could be prohibitive. Mr. Shafer stated that it is his opinion that the reference to the number of acres can be taken out in its entirety.

Dr. Mark Isaacs stated that he supports the concept of the Proposed Ordinance; that he believes there should be a Public Hearing on BioTech Industry/BioTech Campus applications; and that Council needs to look at all aspects of attracting industry. Dr. Isaacs offered to seek additional input from the University of Delaware Research and Education Center and to report his findings to Council.

The Public Hearing was closed.

**M 571 03
Defer
Action on
Proposed
Ordinance
Relating
to Biotech
Industry
and
Biotech
Campus**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW A BIOTECH INDUSTRY AND A BIOTECH CAMPUS AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT AND TO DEFINE BIOTECH INDUSTRY AND BIOTECH CAMPUS" and to leave the record open for written comments until the close of business on October 31, 2003.

Motion Adopted: 4 Yea, 1 Absent.

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

(Mr. Phillips was out of the room during the vote.)

**Public
Hearing/
Proposed
Ordinance
Relating to
Agri-
cultural
Related
Industry**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW AGRICULTURAL RELATED INDUSTRY AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT, TO DEFINE AGRICULTURAL RELATED INDUSTRY, AND TO DELETE CONFLICTING LANGUAGE".

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on September 25, 2003 at which time the Commission

**Public
Hearing
(continued)**

deferred action to allow time for the staff to confer with the Department of Agriculture on their comments which were expressed and included in the comments received from the Office of State Planning Coordination.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the record of this Public Hearing.

Mr. Lank reported that Mr. Rick Kautz and Mr. Tom Shafer met with representatives from the Department of Agriculture and developed some corrections in the wording of the Proposed Ordinance. On October 9, 2003 the Planning and Zoning Commission was provided with a copy of the Proposed Ordinance with the recommended changes. They deferred action again.

Mr. Kautz distributed a revised version of the Proposed Ordinance showing the recommended changes. Mr. Shafer noted that there were a few minor editing comments; that recommended additions were inserted in capital letters and that recommended deletions have a line drawn through the wording. (Copy Attached to Minutes.) Mr. Shafer noted that the Department of Agriculture supports the Proposed Ordinance, with the recommended changes.

Mr. Kautz noted that this amendment is a direct result of recommendations contained in the Comprehensive Plan.

Council expressed concern about the definition of "Agricultural Related Industry" which states that "business establishments that rely on farm or forest products for a substantial portion of their material inputs and that obtain at least 51 percent of their inputs either directly from the local farm or forest/logging industry..." It was noted that this may prove to be a problem since it is more restrictive than the current ordinance pertaining to agriculture related industries.

Mr. Shafer suggested that the reference to 51 percent be deleted. He noted that since it is a conditional use, the Council will have the opportunity to decide whether an application is a proper use or not.

Mr. Rich Collins of the Positive Growth Alliance stated that there is an aspect of discouragement in some of the requirements; for example, the "blanket" restriction for landscape screening; that possibly the County's Economic Development Office could proactively seek agricultural related businesses; and that the Council should not put additional restrictions on the agricultural businesses which they are trying to attract.

Mr. Dan Kramer questioned why this Proposed Ordinance exists and that the "whole thing should be thrown out".

The Public Hearing was closed.

M 572 03
Defer
Action on
Proposed
Ordinance
Relating to
Agri-
cultural
Related
Industry

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO ALLOW AGRICULTURAL RESIDENTIAL ZONING DISTRICT, TO DEFINE AGRICULTURAL RELATED INDUSTRY, AND TO DELETE CONFLICTING LANGUAGE" and to leave the record open for written comments until the close of business on October 31, 2003.

Motion Adopted: 5 Yea.

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

M 573 03
Recess

At 12:15 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:00 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Rogers called Council back into session at 1:12 p.m.

Public
Hearing
(C/Z
No. 1518)

A Public Hearing was held on 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.362 ACRES, MORE OR LESS" (Change of Zone No. 1518) filed on behalf of Theresa E. Murray, Trustee.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on September 25, 2003 at which time the Commission recommended that the application be approved since it is an extension to an existing C-1 General Commercial zone and allows for the expansion of an existing commercial use. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary and the findings and recommendation of the Commission were admitted as part of the record of this Public Hearing.

The Council found that Ellen Magee, daughter of Theresa Murray, was present on behalf of the application and stated that they are requesting the rezoning to allow for the expansion of the existing bait and tackle shop; that the shop has existed since 1952; that the adjoining parcel on which the existing bait and tackle shop is located is zoned C-1 and owned by Theresa Murray; and that other commercial uses exist in the area.

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

M 574 03
Adopt
Ordinance
No. 1636

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1636 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL

M 574 03
(continued)

COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.362 ACRES, MORE OR LESS” (Change of Zone No. 1518) filed on behalf of Theresa E. Murray, Trustee.

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/U
No. 1505)**

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 BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.83 ACRES, MORE OR LESS” (Conditional Use No. 1505) filed on behalf of David Ritter.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on September 25, 2003 at which time the Commission deferred action. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the record of this Public Hearing.

The Council found that David Ritter and Patrick Scanlon, Attorney, were present on behalf of the application and stated in their presentation that the application is for a conditional use for boat storage to be used in connection with Full Tilt Marine’s operation; that there is a tremendous need for boat storage due to the quantity of boating in the area; that the property is virtually surrounded by commercial uses; that no repairs are planned on the property; and that the use is solely for the passive storage of boats.

Mr. Cole suggested that Council discuss possible conditions to attach to the conditional use in the event it is approved in the future. The following conditions were discussed: fencing, landscaping, no lighting, and limiting the use of the property to boat storage.

Mr. Rogers asked that the applicant be up front and honest about his future plans for the site. It was noted that the applicant has previously been approved for a use and expanded on that use without approval and that he has received violations from the Planning and Zoning Department in the past.

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

M 575 03
Defer
Action/
C/U #1505

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1505 filed on behalf of David Ritter.

Motion Adopted: 5 Yea.

**M 575 03
(continued)**

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

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

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 SELF-STORAGE AND WAREHOUSING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.4 ACRES, MORE OR LESS” (Conditional Use No. 1506) filed on behalf of Ocean Highway, LLC.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on September 25, 2003 at which time the Commission deferred action. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the record of this Public Hearing.

Mr. Lank reported that a petition has been received containing 94 signatures in opposition to the application.

Mr. Lank reported that, since the Public Hearing on September 25th, eighteen letters of opposition have been received. Mr. Lank distributed the letters to the Councilmen for their review.

The Council found that Keith Monigle, Partner; Tim Willard, Attorney; and Mark Davidson of the DC Group were present on behalf of the application and stated in their presentation that the property is located west of Fisher Road and east of Harbeson at the intersection of Route 5 and Route 9; that the site is wooded and is not utilized for agriculture; that offices with related storage are proposed to be built on the site; that there is a mix of industrial and commercial uses in the area along with a lot of B-1 uses; that the application is consistent with what is going on in the area; that the storage facilities will be designed in keeping with a residential appearance; and that they are not proposing a retail location, but warehousing for contractors.

Mr. Willard noted that DelDOT has expressed concern about increased traffic; that the Department does not recommend a traffic impact study; that the level of service was “E” five years ago; that they calculate the EDT’s at 1164; that Mark Davidson calculates them at 717; that the mobility element of the Comprehensive Plan recognizes that the Route 9 corridor is experiencing growth and needs improvements; and that it is not unrealistic to locate a project such as this one on Route 9.

It was noted that the difference in the EDT numbers reported by DelDOT and Mark Davidson is due to the difference in the numbers that DelDOT used and the actual numbers of the application.

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

Mr. Willard noted that the letter from the Office of State Planning Coordination states that they prefer to see self storage units in "Community" or "Developing" areas of the County and he stated that this site represents the center of the location between Lewes and Route One, Georgetown, Milton, Long Neck, and Millsboro. He further noted that this is an area recognized for businesses such as storage facilities and mixed residential use.

Mr. Willard stated that in response to concerns expressed at the Public Hearing before the Planning and Zoning Commission, they are suggesting an amendment to the plan eliminating one row of parking, as follows: "Parking between Route 9 and the office building shall be limited to two rows; parking in this area shall be restricted to office employees and visiting customers."

Public comments were heard. Comments in support of the application were made by contractors who expressed that there is a need for storage facilities in the area. Comments in opposition to the application referred to concerns that Route 9 and Route 24 are major east/west roads; that DelDOT recommends denial; that traffic safety problems will increase; that the adequacy of the septic system is unknown; that water run-off is a problem in the area; that commercial uses are taking over the area; that the site plan does not show any screening or lighting; and that the use will decrease the value of homes in the area.

The Public Hearing was closed.

**M 576 03
Defer
Action on
C/U
No. 1506**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to defer action on Conditional Use No. 1506 filed on behalf of Ocean Highway, 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/U
No. 1507**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (52 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.07 ACRES, MORE OR LESS" (Conditional Use No. 1507) filed on behalf of North Beach, LLC.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on September 25, 2003 at which time the Commission recommended that the application be approved with conditions. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary and the findings and recommendations were

**Public
Hearing/
C/U
No. 1507
(continued)**

admitted as part of the record of this Public Hearing.

Mr. Lank reported that, since the Public Hearing on September 25th, one letter was received from Thomas Ryan of Bethany Beach in opposition to the application.

The Council found that Lauren Alberti of North Beach, LLC was present with James Fuqua, Attorney, and Jerry Friedel of Davis, Bowen & Friedel, Inc. They stated in their presentation that the application is for 52 townhouse units with a small recreational area; that 5.72 acres of the 13.07 acre parcel are considered State or Federal Wetlands; that the site is located in the Environmentally Sensitive Developing Area and that according to the guidelines, single family homes, townhouses, and condominiums are appropriate in the area; that the site was formerly an agricultural property and the new use will reduce nutrients; that all wetlands disturbances can be avoided; that a buffer to Pond Acres will be provided; that lighting will be shielded away from residents; that all construction will take place in the upland areas; that the project will be served by County sewer and that, as a result, sewer will be provided to Pond Acres.

Mr. Cole stated that he would like to see the pool relocated to the east side of the site.

Mr. Fuqua submitted letters in support of the application.

Mr. Fuqua stated that a petition was submitted in opposition to the application based on the following reasons: that it would have a detrimental impact on Salt Pond and that the proposal is in direct contrast to residential surrounding areas. He noted that they disagree with these objections and that the development is designed sensitively to the environment and is consistent with the area. He further noted that it has been determined that the project can be redesigned so that the wetlands are not impacted at all and that the current entrance, as designed, does not impact the wetlands.

Mr. Fuqua stated that the Planning and Zoning Commission approved the application with fourteen conditions and that the applicant would like to see two of the conditions changed, as follows:

Condition No. 1 - The maximum number of residential units shall not exceed 40 units.

The applicant would like this changed to "...shall not exceed 52 units."

Condition No. 2 - No pier or dock shall be constructed from the project onto the Salt Pond.

The applicant is seeking permission for one community pier, if approved by DNREC, for pedestrian use only. No motorized "vehicles" will be permitted.

**Public
Hearing/
C/U
No. 1507
(continued)**

Public comments were heard. There were no public comments in support of the application. Public comments were heard in opposition to the application and concern was expressed about the density; the periodic flooding of Route 360; traffic; that the area is predominantly single family residential; that DelDOT has no plans to improve Route 360; that a drainage system is needed between this site and Pond Acres; that a pier proposed on the Salt Pond to serve Pond Acres Subdivision was rejected by the Army Corps of Engineers; that there will be an adverse impact on inland waterways; that there should be curbing, lighting, and fencing; that a 4 foot high fence is not high enough; that the proposal is out of character with the area; and that the area is dangerous during an evacuation.

The Public Hearing was closed.

Mr. Cole questioned DelDOT's plans for improvements to Route 360 and whether they factored in all of the other units approved in the area when they decided that a traffic impact study was not recommended and that the level of service "D" of Route 360 will not change as a result of this application.

**M 577 03
Defer
Action/
C/U
No. 1507**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1507 filed on behalf of North Beach, LLC for receipt of additional information from DelDOT.

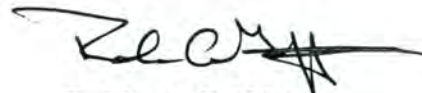
Motion Adopted: 5 Yea.

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

**M 578 03
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to adjourn at 4:10 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council