

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 21, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 21, 2003, at 6:30 p.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
Alix Robinson	Assistant County Attorney

M 579 03 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the
Approve Agenda by deleting "Introduction of Proposed Zoning Ordinances" and to
Agenda approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 580 03 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve minutes of October 14, 2003, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Ms. Robinson read the following correspondence:
spondence

AMBER ALEXANDER, MARCH OF DIMES, NEWPORT, DELAWARE.
RE: Letter in appreciation of Council's support of WalkAmerica 2003.

MARK A. ISAACS, DIRECTOR, UNIVERSITY OF DELAWARE,
COLLEGE OF AGRICULTURE AND NATURAL RESOURCES,
RESEARCH AND EDUCATION CENTER, GEORGETOWN,
DELAWARE.

RE: Letter in appreciation of Council's continued support and funding for
the programs of the Research and Education Center.

**Corre-
spondence
(continued)**

**ANDREW C. STRINE, REHOBOTH BAY CONSERVANCY LLC,
LEWES, DELAWARE.**
**RE: Letter thanking Council for approving the conditional use for a new
Club House.**

**Vietnam
Veterans
Memorial**

**Mr. Robert Corsa, President of the Delaware State Council of the Vietnam
Veterans of America, was present to request (on behalf of the Vietnam
Veterans of Sussex County) financial assistance for the erection of the
Sussex County Vietnam Veterans Memorial on County land at the corner of
South Bedford Street and The Circle in Georgetown.**

**Mr. Corsa stated that the memorial will be designed as a “welcome home”
to those who died in the war as well as for those who served in the war. The
memorial will honor everyone who has fought and died for America. The
memorial will be in the shape of Sussex County and will be constructed of
black granite, in keeping with the style of “The Wall” in Washington, D.C.
The memorial will list all of the names of the Vietnam Veterans who resided
in Sussex County. Mr. Corsa asked Council to donate \$100.00 per name.
He noted that the total cost of the project is \$24,000. The dedication
ceremony for the memorial is scheduled for Return Day.**

**M 581 03
County
Council
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$5,000 to
the Vietnam Veterans of America, Chapter 546, Memorial Fund from
County Council Grants for the construction of a Sussex County Vietnam
Veterans Memorial.**

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. Stickels discussed wastewater facilities to be constructed in the Long
Neck Sanitary Sewer District.**

**M 582 03
Execute
Agreements/
Bay Farm
Road and
The
Peninsula**

**A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the
recommendation of the Sussex County Engineering Department, for Sussex
County Project No. 81-04, Agreement No. 321 and Agreement No. 332, that
the Sussex County Council execute Construction Administration and
Construction Inspection Agreements between Sussex County Council and
The Peninsula at Long Neck, LLC, for wastewater facilities to be
constructed in Bay Farm Road Sanitary Sewer Extension and Peninsula,
Phase 1A, located in the Long Neck Sanitary Sewer District, and that
approval is subject to a construction permit by the Department of Natural
Resources and Environmental Control.**

Motion Adopted: 5 Yea.

**M 582 03
(continued)**

**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 Administrator's Report:

1. Engineering – Beneficial Acceptance

The Sussex County Engineering Department has granted Beneficial Acceptance to the following projects:

- Lingo Creek Apartments, Long Neck Sanitary Sewer District, Agreement No. 277**
- Paynter's Mill – Phase I, West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Agreement No. 237**

Included with the report were copies of the fact sheets on these projects.

**Department
of Libraries
Courier
Service/
Bid
Opening
and
Recommen-
dation**

Ms. Carol Fitzgerald, Director of County Libraries, reported the bid results for Library Courier Service. She reported that only one bid was received. The bid was from Brooks Courier Service in the amount of \$766.58 per week plus a fuel surcharge, for the period through June 30, 2005. They also provided a quote from July 2005 through June 2007 with a price of \$793.41 per week plus the fuel surcharge. She noted that Brooks Courier Service is the County's current courier service at a rate of \$730.08 plus a fuel surcharge.

Ms. Fitzgerald explained that the courier service goes to all the libraries in the County and transports all the books and library materials among the different libraries. She reported that the service is used extensively and that the service provided by Brooks is excellent.

Mr. Dukes expressed concern about providing this service due to the amount of money it costs the County.

**M 583 03
Award
Bid/
Department
of Libraries
Courier
Service**

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council awards the contract for Library Delivery Service to Brooks Courier Service, Inc., subject to the approval of the County Attorney and Finance Director.

Motion Adopted: 5 Yea.

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

**Library
Policy**

Mr. Phillips questioned pornography accessibility on the internet at the County's libraries. Ms. Fitzgerald responded that the libraries are not filtering at the present time; however, parental consent to use the computers is required for anyone under the age of 18. Ms. Fitzgerald also advised that there is a policy that all library users sign which states that a person is not permitted to access pornography and that if they do, action will be taken and the individual may be barred from using the computers.

**Old
Business
C/U
No. 1466**

The County Council considered the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 38 DUPLEX STYLE HOMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.96 ACRES, MORE OR LESS" (Conditional Use No. 1466) filed on behalf of Bridle Ridge Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on October 24, 2002 at which time they deferred action. On November 14, 2002 the Commission discussed the application under Old Business and recommended that the application be approved with the following nine conditions:

1. The maximum number of units shall not exceed 38 units, which shall be located in the 19 duplex buildings.
2. The minimum size of each unit shall be 2,000 square feet.
3. The project shall be served by central sewer.
4. The project shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
5. A landscaped berm, not to exceed four (4) feet in height, shall be installed along the entire frontage of Route 9.
6. A vinyl clad fence, a minimum of six (6) feet in height shall be erected on the subject site a reasonable distance from the Cypress trees along the lands of Brittany Acres Subdivision to allow for care and maintenance of the trees.
7. Interior streets shall be built to Sussex County street specifications and shall include street lighting and sidewalks.
8. Property addressing of the project shall be submitted to the County Addressing Division for review and approval.
9. The site plan shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and discussion of Old Business. The summary and the findings and recommendations of the Commission were admitted as part of the record of the County Council's discussion.

The County Council held a Public Hearing on November 12, 2002 at which time action was deferred.

**C/U
No. 1466
(continued)**

The County Council discussed the Conditional Use application and the recommendation of the Planning and Zoning Commission. Comments were made regarding the distance of the structures to the property line of the adjoining subdivision; that the project should be consistent with the rest of the neighborhood; that the density of the project is high compared to other projects in the area; the possibility of a conversion of this project into 38 single family structures; that a conversion would be subject to site plan review; and if the applicant did a standard subdivision, it is likely that only 19 to 22 single family structures would be permitted based on AR zoning with sewer.

Mr. Lank showed samples of both site plans – one with single family homes and one with duplexes.

Mr. Jones stated that he has a lot of concerns and that he would like to consider the information. He asked that action be deferred for a maximum of two weeks.

Mr. Lank was directed to review the decision on the application of Sussex West Manufactured Home Community, which is in close proximity to this application and to review Brittany Acres' deed restrictions referencing the B-1 zoning classification.

**M 584 03
Defer
Action
on C/U
No. 1466**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on Conditional Use No. 1466 filed on behalf of Bridle Ridge Properties, LLC for a period of time not to exceed two weeks.

Motion Adopted: 4 Yea, 1 Nay.

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

**Old
Business
C/Z
No. 1513
and
C/U
No. 1502**

The County Council considered the Proposed Ordinances entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.09 ACRES, MORE OR LESS" (Change of Zone No. 1513) filed on behalf of Windmill Ventures, LLC and 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 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.09 ACRES, MORE OR LESS" (Conditional Use No. 1502) filed on behalf of Windmill Ventures, LLC.

C/Z
No. 1513
and
C/U
No. 1502
(continued)

The Planning and Zoning Commission held a Public Hearing on these applications on August 28, 2003 at which time they deferred action. On September 25, 2003 the Commission discussed the applications under Old Business and recommended that the application for a change of zone be approved and that the application for a conditional use be denied.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and discussion of Old Business. The summary and the findings and recommendations of the Commission were admitted as part of the record of the County Council's discussion.

The County Council held a Public Hearing on the applications on September 16, 2003 at which time action was deferred.

It was noted that the applications are for the rezoning of the site to MR to allow for a conditional use application for 106 multi-family units.

The County Council discussed the Change of Zone application and the recommendation of the Planning and Zoning Commission. Comments were made referencing the amount of wetlands on the site; the close proximity of the site to the town boundaries of the Town of Millville and the Town of Ocean View; and the compatibility of the proposal with the area.

M 585 03
Adopt
Ordinance
No. 1637
(C/Z
No. 1513)

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1637 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.09 ACRES, MORE OR LESS" (Change of Zone No. 1513) filed on behalf of Windmill Ventures, LLC.

Motion Adopted: 4 Yea, 1 Nay.

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

Old
Business
C/U
No. 1502

The County Council discussed the Conditional Use application and the recommendation of the Planning and Zoning Commission. Comments were made referencing the number of units permitted under MR zoning, under perfect conditions, which would be in the 90 - 100 range; the substantial amount of wetlands on the site; that the proposed density is a little high; whether the project would change the character of the neighborhood; whether the project should be a single family project; and that townhouses appeal to transient and second-home homeowners.

C/U
No. 1502
(continued)

Mr. Lank advised Council that the applicant's attorney submitted the following Proposed Conditions for Council's consideration:

1. The maximum number of residential units shall not exceed 106.
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 two years of the issuance of the first residential building permit. These amenities shall include a swimming pool and clubhouse.
4. The development shall be served as part of the Ocean View expansion of the Bethany Beach Sanitary Sewer District in accordance with Sussex County Engineering Department specifications.
5. The development 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. BMP's shall be incorporated into the system design to minimize any environmental impact.
7. Site plan review for each phase of 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 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 percent 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, landscape 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 30-foot forested buffer shall be provided on the southerly and northerly boundaries of the development. A 50-foot forested buffer shall be provided along the easterly boundary of the development.

C/U
No. 1502
(continued)

13. The developer has indicated that \$100.00 will be collected at the original settlement for the local fire company and that \$100.00 per year per unit will be collected as part of the condominium fee and donated to the local fire company by the Condominium Association.
14. Landscaping and lawn maintenance shall be the responsibility of the Condominium Association. Best Management Practices will be utilized to minimize any environmental impact.

Council discussed the proposed conditions and made the following changes:

- Strike Condition No. 13 in its entirety.
- Add a condition that “Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.”
- Add a condition that “Sidewalks and streetlights shall be incorporated into the interior streets.”

A discussion ensued regarding the density of the project. Comments were made that if the project is multi-family, the wetlands would not be disturbed; that approving the application, as presented, will set a precedent in the area; that the project should be for single-family homes; that approving the application with the “slightly higher” density will preserve properties farther west; that the character of this community is changing because densities are constantly being cut, thereby forcing development to the west; that townhouses versus single family homes will be a better scenario since it will preserve open space and wetlands.

Council had many questions regarding density calculations referencing townhouses, single family homes, and wetlands.

M 586 03
Defer
Action
on C/U
No. 1502

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1502 filed on behalf of Windmill Ventures for two weeks to allow Mr. Lank, Director of Planning and Zoning, to scrutinize the density calculation.

Motion Adopted: 4 Yea, 1 Nay.

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

Old
Business
C/Z
No. 1514

The County Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS” (Change of Zone No. 1514) filed on behalf of Don Conaway.

**C/Z
No. 1514
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2003 at which time they deferred action. On October 9, 2003 the Commission discussed the application under Old Business and recommended that the application be denied.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and discussion of Old Business. The summary and the findings and recommendations of the Commission were admitted as part of the record of the County Council's discussion.

The County Council held a Public Hearing on this application on September 30, 2003 at which time action was deferred.

The County Council discussed the Change of Zone application and the recommendation of the Planning and Zoning Commission. Mr. Lank distributed and reviewed a deed restriction which was recorded on this date (October 21, 2003) which makes reference to the number of units for Change of Zone No. 1514 (16 units) and Change of Zone No. 1515 (30 units).

Mr. Cole questioned sewer capacity and whether the Planning and Zoning Commission, during site plan approval, can approve more units that the Engineering Department has stated there is capacity for. Mr. Lank responded that the Commission cannot approve more units than the Engineering Department states there is capacity for.

**M 587 03
Adopt
Ordinance
No. 1638
(C/Z
No. 1514)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1638 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS" (Change of Zone No. 1514) filed on behalf of Don Conaway.

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. 1515**

The County Council considered the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.61 ACRES, MORE OR LESS" (Change of Zone No. 1515) filed on behalf of Don Conaway.

**C/Z
No. 1515
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2003 at which time they deferred action. On October 9, 2003 the Commission discussed the application under Old Business and recommended that the application be denied.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and discussion of Old Business. The summary and the findings and recommendations of the Commission were admitted as part of the record of the County Council's discussion.

The County Council held a Public Hearing on this application on September 30, 2003 at which time action was deferred.

The County Council discussed the Change of Zone application and the recommendation of the Planning and Zoning Commission.

**M 588 03
Adopt
Ordinance
No. 1639
(C/Z
No. 1515)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1639 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.61 ACRES, MORE OR LESS" (Change of Zone No. 1515) filed on behalf of Don Conaway.

Motion Adopted: 5 Yea.

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

Requests

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

**M 589 03
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$900.00, \$180.00 from each Councilmanic Account, to the Church of God and Saints of Christ for the Sussex County Free Thanksgiving Dinner.

Motion Adopted: 5 Yea.

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

**M 590 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Jones' Councilmanic Account to the Friends of the Georgetown Public Library for the 2003 fundraiser for the new library building fund.

Motion Adopted: 5 Yea.

**M 590 03
(continued)**

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

**M 591 03
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$250.00 from Mr. Phillips' Councilmanic Account to the Greater Delmar Chamber of Commerce for the Citizen of the Year Program.

Motion Adopted: 5 Yea.

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

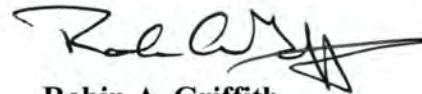
Comments

Mr. Kramer commented on Council's contribution to churches for free thanksgiving dinners for Sussex County residents.

**M 592 03
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn at 8:32 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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