

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 13, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, November 13, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 660 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the agenda by Amend and Approve Agenda deleting "Gloria Homer, Secretary of Administrative Services, 1. Courthouse Construction Progress Report" and by deleting "Aydelotte Estates, Beneficial Acceptance" under Robert Green, Director of Utility Engineering, and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 661 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of November 6, 2001, as distributed. Approve Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

CLAIRE E. LAYTON, OCEAN VIEW, DELAWARE.

RE: Letter commending Al Phillips of the Sussex County Community Development Department.

JUDY SHERIDAN, VISION DAYS CHAIRMAN, LAUREL LIONS CLUB, LAUREL, DELAWARE.

RE: Letter in appreciation of grant funding.

Milton
Library

Brad Hawkes, Director of Utility Engineering, updated the County on the progress of the Milton Library Project. Mr. Hawkes reported that in 1998, the County bought the property adjacent to the Milton Library for the purpose of constructing a new library building. Mr. Hawkes advised Council that in the year 1999, a building committee was formed and State funding was sought for the project. In 2000, the County Engineering Department was engaged to perform the consultant selection process and Weymouth Planners & Architects were hired. Mr. Hawkes advised that the project was delayed due to funding and the design process was put on hold to pursue additional funds. Additional funding was received to fund Phase I of the project.

Mr. Hawkes advised that currently, the preliminary plans for the building are being reviewed and it is planned that the County will bid out contracts for the library expansion during January or February of 2002. It is anticipated that the contract for Phase I will be awarded in May, 2002, with a one-year construction time to follow. The initial phase will include the entire building envelope, which includes two floors, with the completion of the first floor and possibly elevators, depending on the outcome of the bids. The second phase of the project would include completion of the second floor where meeting rooms will be located and possibly elevators, again depending on the outcome of the bids. Mr. Hawkes also commented on other issues that will need to be considered such as renovations to the existing structure and parking.

Mr. Weymouth was in attendance and presented an overview of the plans for the library building expansion.

Terminal
Building

Mr. Sapp, Project Engineer, provided an update on the progress of the new terminal building at the Sussex County Airport. Mr. Sapp advised that the 6,100 square foot building is approximately 50 percent complete with a scheduled completion date of February 13, 2002. The contract was awarded to the Whayland Company in the amount of \$1,055,000; the architects for the building are French & Ryan. The building will provide room for three offices for aeronautic businesses, FBO offices, conference room, and a 60-seat restaurant.

M 662 01
Amend
Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to amend the Agenda by deleting "Terminal Apron Project, Supplemental Agreement No. 1" and replacing it with "Terminal Apron Project, Change Order No. 1"

Motion Adopted: 5 Yea.

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

Terminal
Apron
Project

Mr. Sapp, Project Engineer, discussed Change Order No. 1 to the Terminal Apron Project. The change order, in the amount of \$55,000.00, is a result of the County deciding to increase the size of the Terminal Apron Expansion Project due to the poor condition of the adjacent paving.

M 663 01
Approve
Change
Order/
Terminal
Apron
Project

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 1 for Project No. 01-09, Sussex County Airport Terminal Apron Expansion for \$55,000.00, to increase the contract amount from \$669,123.90 to \$724,123.90, and an additional nine days to extend the contract time from ninety calendar days to ninety-nine calendar days, contingent upon receipt of the FAA's approval.

Motion Adopted: 5 Yea.

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

U of D
Research &
Education
Center/
Cooperative
Extension

The County Council presented checks totaling \$159,115 to the University of Delaware Research & Education Center, Sussex County Cooperative Extension Program, for programs to benefit local farmers and the poultry industry. The checks represented a donation of \$109,115 to the Extension Program and \$50,000 to the Poultry Production Efficiency Program. Mr. Mark Isaacs and Dr. Gary Van Winkle were present and briefly discussed how the funding will be used.

Proposed
Amendment/
Subdivision
Ordinance

Mr. Stickels presented a proposed amendment to the Subdivision Ordinance which provides for the elimination of the requirement that the Commission, on the second meeting of each month, hear subdivisions so that all applications of any kind may be heard in chronological order, based upon the filing date.

Proposed
Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF THE SUBDIVISION CODE OF SUSSEX COUNTY, RELATING TO SUBMISSION OF PRELIMINARY PLAT AND PRESENTATION TO COMMISSION". The Proposed Ordinance will be advertised for Public Hearing.

Adminis-
trator's
Report

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

1. Land Use Plan Update

The first in a series of public meetings will take place on Wednesday, November 14, 2001. County staff will be meeting with representatives of the City of Milford and Towns of Greenwood, Bridgeville, and Georgetown starting at 3:30 p.m. at the Greenwood Fire Hall. The public is invited to attend the meeting starting at 5:00 p.m. A formal presentation will be given at 6:00 p.m., and oral and written comments will be accepted at that time. It is anticipated that the meeting will end approximately 7:00 p.m.

2. 21st Century Neighborhood Revitalization Fund

I have received notification from the Delaware State Housing Authority that the Towns of Ellendale and Bethel have each received \$200,000 under the 21st Century Neighborhood Revitalization Fund. These funds will be used to make

Adminis-
trator's
Report
(continued)

three percent deferred payment loans of up to \$35,000 to individual homeowners or landlords in those communities who meet the program eligibility requirements, and grants to those homeowners who meet the income requirements.

Anyone interested in participating in this program should contact the Sussex County Community Development and Housing Division at 855-7777.

3. Vacation of a Portion of Rifle Range Road

The Delaware Department of Transportation (DelDOT) will be holding a public hearing on Thursday, December 13, 2001, at 11:00 a.m. at the DelDOT Administration Building located on Route 113 in Georgetown to allow residents to comment on DelDOT's plan to vacate a portion of Rifle Range Road (Sussex County Road 545), measuring approximately 0.8 of a mile, more or less, which has ceased to be necessary to the State of Delaware highway system.

I have notified the Engineering Department, Planning and Zoning Department, and Emergency Operations. At this time, I know of no reason why the County should oppose this vacating.

4. America's Response to 9-11

Please be advised that Senator Thomas R. Carper will be holding a public meeting on Saturday, November 17, 2001, to discuss America's response to 9-11. The meeting will take place in the main conference room of the Sussex County Administrative West Complex, 9 South DuPont Highway, Georgetown, Delaware, from 10:00 a.m. to 12:00 p.m. The public is encouraged to attend this conference.

For any additional information, call 856-7690.

5. Holiday Schedule

Sussex County offices will be closed Thursday, November 22, and Friday, November 23, 2001, to allow employees to observe the Thanksgiving Day holiday, and Mr. Cole's 51st birthday on November 22. There will not be a Council meeting on Tuesday, November 20. The next regularly scheduled Council meeting will be at 10:00 a.m. on Tuesday, November 27, 2001.

6. Economic Development Slogan Contest Rules

Included with this report are the guidelines for the Economic Development Slogan Contest. Applications can be made on-line by visiting the County's homepage at www.sussexcounty.net. Councilman Vance Phillips will provide a \$100 U.S. Savings Bond to the Sussex County student that provides the County with a new economic development slogan.

Public
Hearing/
Issuance
of Bonds/
Gumboro
Volunteer
Fire
Company

A Public Hearing was held with respect to a Resolution to approve the issuance by the Gumboro Volunteer Fire Company, Gumboro, Delaware, a volunteer fire company providing firefighting services to an area within Sussex County, of a bond or note of the Gumboro Volunteer Fire Company in the maximum aggregate principal amount not to exceed \$500,000, the proceeds of which will be used by the Gumboro Volunteer Fire Company to pay for a portion of the cost of a new rescue truck.

The Fire Chief of the Gumboro Fire Company was present in support of the Proposed Resolution. There were no public comments and the Public Hearing was closed.

M 664 01
Adopt
Resolution
No.
R 030 01

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Resolution No. R 030 01 entitled "RESOLUTION APPROVING A WRITTEN AGREEMENT FOR FIRE FIGHTING SERVICES WITH THE GUMBORO VOLUNTEER FIRE COMPANY AND THE ISSUANCE OF CERTAIN BONDS BY THE GUMBORO VOLUNTEER FIRE COMPANY".

Motion Adopted: 5 Yea.

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

Wastewater
Facilities

Mr. Green, Director of Utility Engineering, discussed wastewater facilities in the West Rehoboth Sanitary Sewer District.

M 665 01
Execute
Agreements/
Beebe
Health
Campus

A Motion was made by Mr. Jones, seconded by Mr. Cole, 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 execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Beebe Medical Center, for wastewater facilities to be constructed in Beebe Health Campus, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 666 01
Grant
Conditional
Acceptance/
Rehoboth
Beach
Yacht &
Country
Club

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 221, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in Rehoboth Beach Yacht & Country Club, Phase 6B, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

M 666 01
(continued)

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

M 667 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$800.00, \$160.00 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 668 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$400.00 from Mr. Rogers' Councilmanic Account, to the Milton Community Christmas Parade for expenses.

Motion Adopted: 5 Yea.

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

M 669 01
Youth
Activity
Grant

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Youth Activity Grant Account to Presidential Classroom for Jon-Michael Welch's participation in the Presidential Classroom Program in Washington, D.C.

Motion Adopted: 5 Yea.

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

M 670 01
Recess

At 11:22 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called Council back into session at 1:30 p.m.

Public
Hearing
(C/U
No. 1422)

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 ADDITIONAL MOTEL USES (PARKING, WASTEWATER, EXPANSION, ETC.) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.3437 ACRES, MORE OR LESS" (Conditional Use No. 1422) filed on behalf of Donald D'Aquila.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2001, at which time they recommended that the application be denied for

Public
Hearing
(C/U
No. 1422)
(continued)

lack of a proper site plan and the overly general quality of the application. The report of the Planning and Zoning Commission was made a part of the record.

Mr. Donald D'Aquila was present on behalf of his application and stated in his presentation that the site plan for the motel was approved by the Planning & Zoning Commission in 1998; that construction of the motel will start in the year 2002; that the entrance to the site has been built to DelDOT standards; that the intended uses for the conditional use of the property would be for any future need for wastewater management, sediment/erosion control, parking, and any amenities associated with the motel project; and that no buildings are proposed on the site.

Council members expressed concern that there is typically a specified use for a conditional use permit and that the applicant's proposed uses are speculative and too broad.

Mr. Bayard stated that it would be easier for Council to look at an approved site plan, with all permits in place, on the C-1 property to determine whether a conditional use is appropriate for this site. Mr. Bayard further stated that it is impossible for Council to judge the merits of this application without looking at the finished project on the C-1 property.

Mr. D'Aquila was advised that he does not need a conditional use permit for stormwater management or a septic system and that permits for these uses can be obtained from DNREC and the Soil Conservation Service. He was further advised that if he wants to expand the motel, add any structures, or extend parking, a conditional use permit would be needed.

Based on this information, Mr. D'Aquila requested permission to withdraw his application.

Public comments were heard in opposition to the application from Matt Miller, Jack Miller, and Ruth Ellen Miller. Comments referenced concerns about traffic and flooding and the petitions signed by area residents in opposition to the application. There were no comments in support of the application. The Public Hearing was closed.

M 671 01
Permit
Withdraw
of C/U
No. 1422

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to permit Mr. Donald D'Aquila to withdraw his application for Conditional Use No. 1422 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ADDITIONAL MOTEL USES (PARKING, WASTEWATER, EXPANSION, ETC.) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.3437 ACRES, MORE OR LESS".

Motion Adopted: 4 Yea, 1 Nay.

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

Public
Hearing
(C/U
No. 1423)

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 PARKING FOR TEN (10) MOBILE CAMPERS/ RV TRAILERS AS AN EXPANSION TO CONDITIONAL USE NO. 869 (EXPANSION OF EXISTING AIRPORT FACILITY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 52 ACRES, MORE OR LESS" (Conditional Use No. 1423) filed on behalf of Skydive Delmarva, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2001, at which time they recommended that the application be approved with stipulations. The report of the Planning and Zoning Commission was made a part of the record.

Mr. Brian Kunkowski, President of Skydive Delmarva, Inc. and David Rutt, Attorney, were present on behalf of the application. They stated that the application is for ten mobile campers to be used by instructors and pilots from April 1 to November 30.

Public comments were heard. Mr. David Sulley spoke in opposition to the application and advised that the applicant has not obtained any permits for the work that has been done on the site and that the improvements are not up to code with building code and fire marshal regulations. Six people were present in support of the application. There were no further public comments and the Public Hearing was closed.

It was the consensus of Council to request a report from the Planning and Zoning Department as to the present status of the site in terms of compliance and non-compliance with County ordinances.

Questions arose regarding the Council's policy on zoning violations as they relate to applications for change of zone and conditional use. This issue will be researched and information will be provided to Council.

M 672 01
Defer
Action
on C/U
No. 1423

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PARKING FOR TEN (10) MOBILE CAMPERS/ RV TRAILERS AS AN EXPANSION TO CONDITIONAL USE NO. 869 (EXPANSION OF EXISTING AIRPORT FACILITY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 52 ACRES, MORE OR LESS" (Conditional Use No. 1423) filed on behalf of Skydive Delmarva, Inc. and to leave the record open until December 4, 2001 for receipt of the report from the Planning and Zoning Department.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1425)

The next Public Hearing to be held was on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE AND AN OFFICE FOR A LOCAL PLUMBING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23,700 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1425) filed on behalf of Brice and Wanda M. Butler.

A letter was read into the record from Linda M. Schroeder advising Council that all of the opponents to Conditional Use No. 1425 will be unable to attend the scheduled public hearing due to the fact that they will be attending a funeral.

M 673 01
Recess
Public
Hearing
(C/U
No. 1425)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to recess the public hearing on Conditional Use No. 1425, filed on behalf of Brice and Wanda M. Butler, until November 27, 2001, at 1:30 p.m.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1424)

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 RETAIL SALES OF LANDSCAPING SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.5531 ACRES, MORE OR LESS" (Conditional Use No. 1424) filed on behalf of L. Thomas Harmon.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2001, at which time they recommended that the application be denied since the use may impact the residential area. The report of the Planning and Zoning Commission was made a part of the record.

Mr. and Mrs. Harmon were present on behalf of the application. Mr. Harmon stated that they have been using this site for storage of trucks, tractors, backhoes, materials, etc. without any complaints; that there is now a concern because of the amount of fill and wood product that has been brought onto the site and complaints have been made regarding the noise of the equipment; that he has not been selling any products on site; that although their application is for a full retail operation, they would consider a compromise to withdraw the retail part of the application if they can retain the bulk storage; that they would agree to a retail operation time between 7:00 a.m. and 6:00 p.m. Monday through Friday; that the materials to be stored on the site are not a threat to water quality; that trucks, trailers, tractors, combines, etc. already use Road 280B and that the increase in the amount of traffic generated by this operation would create no impact.

Public comments were heard. There were no comments in favor of the application.

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

Comments in opposition to the application referred to the quiet residential nature of the development; that the proposed activity would be disruptive to the residents' lives; that the operation creates dust, noise and truck traffic; that the increased traffic would cause safety concerns for small children; that this is an industrial use and should not be located in a residential area; that there is no safety fence surrounding the site; that the materials stored on site could be a fire hazard; and that if the use was limited to bulk storage, they would still oppose the application.

The Public Hearing was closed.

Council members commented that they would like to defer action on the application so that they can visit the site.

M 674 01
Defer
Action
(C/U
No. 1424)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES OF LANDSCAPING SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.5531 ACRES, MORE OR LESS" (Conditional Use No. 1424) filed on behalf of L. Thomas Harmon.

Motion Adopted: 5 Yea.

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

Dukes

Mr. Dukes left the meeting.

Jones

Mr. Jones presided over the meeting.

Public
Hearing
(C/Z
No. 1450)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1/RPC AGRICULTURAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 133.28 ACRES, MORE OR LESS" (Change of Zone No. 1450) filed on behalf of Beaver Creek, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2001, at which time they recommended that the application be approved with conditions. The report of the Planning and Zoning Commission was made a part of the record.

Mr. James Fuqua, Attorney; Craig Hudson, Applicant; and Jeff Clark of Land Tech L.L.C., were present on behalf of this application. Mr. Fuqua stated that the application is for a residential planned community overlay; that the property will remain AR-1 Agricultural Residential; that a maximum of 98 units are proposed on 133 acres; that 24 single family lots and 74 detached condominium dwellings are

(continued) proposed; that the development will cater to equestrian uses; and that an indoor arena, riding trails, and a fenced riding area are proposed.

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

M 675 01
Adopt
Ordinance
No. 1505
(C/Z
No. 1450)

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1505 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1/RPC AGRICULTURAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 133.28 ACRES, MORE OR LESS" (Change of Zone No. 1450) filed on behalf of Beaver Creek, L.L.C., with the following conditions:

1. The maximum number of residential units shall not exceed 98 comprised of lots and single family condominium units.
2. The development shall utilize one entrance from State Route 18 (aka Route 9) which entrance and improvements shall comply with the requirements of DelDOT.
3. Street lighting shall be provided throughout the development and sidewalks shall be provided in the single family condominium areas.
4. The single family condominium units shall be served by a central water system and by an on-site septic sewer system approved by DNREC.
5. Storm water management shall comply with the requirements of Sussex Conservation District.
6. Use of the B-1 arena area shall be limited to uses related to horses, including grooming, riding lessons, horse rides, sale of horse related items, etc.
7. A horse waste management program shall be prepared and implemented by the Developer/Homeowner Association.
8. No site preparation, site disturbance, excavation, or other construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final record plan is recorded.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact

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

1. RPC zoning is appropriate for this parcel of land. The purposes of a RPC zoning district is to encourage large-scale developments as a means of creating a superior living environment through uniform development, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the 1997 Sussex County Comprehensive Plan (the "Plan"). This application is consistent with those stated purposes:
2. The proposed development is in accordance with the Comprehensive Plan in that:
 - A. It is maintaining AR-1 zoning and proposing 97 residential units which is significantly less than that permitted in an AR zone.
 - B. There are no negative environmental effects and the change of zone and development will provide housing, economic benefits and employment.
 - C. The density and type of development proposed are in accordance with the development anticipated by the plan and the site is located in an area where development already exists.
 - D. The applicant has shown that the proposed use is appropriate and in conformity with the Plan and the intent of the Land Use Plan.
 - E. The density is less than the density that is allowed by the Plan.
 - F. Although the site is not in the Plan's development district, the density is less than that already permitted and extensive commercial and residential development already exists east, west and south of the property.
3. The request promotes the health, safety, morals, convenience, order, prosperity, and general welfare of current and future residents based on the evidence and testimony presented by the applicant including the following:
 - A. Access to the project shall be created in accordance with review and approval of DelDOT.
 - B. Adequate fire and police protection are available.
 - C. The project is located in an area which is appropriate for the requested RPC rezoning and characterized by a mixture of commercial and residential development of various degrees of intensity.
 - D. That adequate utility services, schools, medical facilities and shopping areas are available.

Findings
of Fact
(continued)

- E. That the development will provide a substantial direct economic impact to the County in terms of jobs, payrolls, property taxes, school taxes, and transfer taxes and will provide a substantial secondary economic impact to area businesses.
- F. That the property is located in an existing mixed commercial/residential area and the proposal will not adversely affect agriculture.
- G. That the character of the existing area is mixed commercial/residential and that the site is suitable and appropriate for the proposed use, and does not appear to have any adverse impact on property values, nearby property uses or natural resources.
- H. That there is a need for housing of the type proposed by the applicant in the area for year-round residents.
- I. The proposed development contains a significant amount of open space.
- J. That the development is consistent with the historical trend of development in the area and the area is not rural as designated on the State Map due to the existing commercial and residential development in the area.
- K. That the findings of fact and conclusions stated herein are based on substantial evidence comprised of the reasons stated above, the testimony and evidence presented by the applicant and the findings of fact of the Planning and Zoning Commission's recommendation of approval.

M 676 01
Adjourn

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to adjourn at 4:30 p.m.
Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council