

**SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-MARCH 22, 2005**



*Sussex County Council  
Agendas & Minutes*

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, March 22, 2005, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

**Finley B. Jones, Jr.  
Lynn J. Rogers  
George B. Cole  
Dale R. Dukes  
Vance C. Phillips  
Robert L. Stickels  
David B. Baker  
Alix K. Robinson**

**President  
Vice President  
Member  
Member  
Member  
County Administrator  
Finance Director  
Assistant County Attorney**

**M 182 05  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to amend the Agenda of March 22, 2005, by adding "PROCLAMATION IN SUPPORT OF THE LIFE OF TERRY SCHIAVO" immediately after Reading of Correspondence, and to approve the Agenda, as amended.

**Motion Adopted: 5 Yea.**

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

**M 183 05  
Approve  
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of March 15, 2005.

**Motion Adopted: 5 Yea.**

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

**Corre-  
spondence**

Ms. Robinson read the following correspondence:

**JOSEPH N. ZAGONE, CIVIL ENGINEER, FEDERAL EMERGENCY  
MANAGEMENT AGENCY, U. S. DEPARTMENT OF HOMELAND**

**SECURITY, PHILADELPHIA, PA**

**RE:** Letter addressed to Robert Stickels, Sussex County Administrator, commending the County for making revisions to the Sussex County, Delaware, Flood Plain Management Ordinance and bringing the Ordinance into compliance with the National Flood Insurance Program as revised on October 1, 1989.

**M 184 05  
Adopt  
Procla-  
mation**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Proclamation entitled “PROCLAMATION IN SUPPORT OF THE LIFE OF TERRY SCHIAVO.”**

**Motion Adopted: 5 Yea.**

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

**Sussex  
County  
Land  
Trust/  
Expendi-  
ture  
Requests/  
Ponder  
Tract  
and  
Ag Lands  
Preser-  
vation  
Foundation**

**Wendy Baker, President and Chief Executive Officer of the Sussex County Land Trust (SCLT), was present with Maria Trabka of The Nature Conservancy and Mark Davis of the Delaware Agricultural Lands Preservation Foundation to discuss funding proposals for Council’s consideration.**

**Ms. Baker provided Council with an update on the activities of the Sussex County Land Trust and advised that the Land Trust has been involved in the preservation of over 2,500 acres in Sussex County to date, with private donations totaling \$1,195,000. A handout as of February 28, 2005, was made available to Council showing funds received from private sources; Sussex County Council pledged funds, expenses, unexpended committed funds, and a description of the various projects; U. S. Army Corps of Engineers funding received and expended; and developer pledged funds. Mr. Stickels stated that in addition to the \$4,000,000 pledged by Sussex County through Fiscal Year 2006 to the Sussex County Land Trust, the County is committed to farmland preservation through other funding sources that will be discussed at a meeting with the Delaware Department of Agriculture on April 4, 2005. Recommendations will be presented at the Sussex County Council meeting on April 5, 2005.**

**Ms. Baker also reported on the status of the headquarters for the Sussex County Land Trust, Wolfe House, which is a partnership between the Land Trust and Delaware Department of Natural Resources and Environmental Control (DNREC) whereby SCLT will be responsible for the interior renovations and DNREC will handle the exterior work. In addition, Ms. Baker advised that the Land Trust held a very successful “Race for Open Space” this year, a 5K run and walk, with 130 participants.**

Sussex  
County  
Land  
Trust/  
Expendi-  
ture  
Requests  
(continued)

In keeping with the Land Trust's mission statement of identifying valuable lands important for preservation, Ms. Baker stated that the Board of Trustees would like to use Sussex County Council pledged funds toward the purchase of the Ponder Tract located on the corner of Route 30 and Route 16 between Ellendale and Milton by The Nature Conservancy. Ms. Trabka, Director of the Delaware Bayshores Project for The Nature Conservancy, explained that the project will preserve important habitats in Sussex County and the watershed of the Delaware Bay. Purchased approximately one year ago from the Glatfelter Pulpwood Company, the land is adjacent to a 450-acre tract of land that The Nature Conservancy owns and a 513-acre tract that is in farmland preservation. Plans for the land are to restore it to a mixed native hardwood forest, including oak, hickory, sweet gum, holly, and some pine. As the restoration takes place, public access trails will also be developed. The Sussex County Land Trust has pledged \$1,000,000 toward this project, which has a total cost of approximately \$10,000,000. Additional funding has been obtained by The Nature Conservancy through private donations, foundation donations, the State of Delaware's Open Space Program, and from the Federal government through the Forest Legacy Program and USDA. The Sussex County Land Trust has appropriated \$250,000 and is requesting approval for a contribution of the balance of \$750,000 from Council funds that have already been pledged to the Land Trust.

M 185 05  
Authorize  
Sussex  
County  
Land  
Trust  
Expendi-  
ture/  
Ponder  
Tract

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council authorizes the expenditure of \$750,000 of Sussex County's contribution to the Sussex County Land Trust for the purchase of the Ponder Tract.

Motion Adopted: 5 Yea.

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

Ms. Baker also requested Council approval for the expenditure of funds for the Delaware Agricultural Lands Preservation Foundation. Ms. Baker stated that the SCLT Board of Trustees feels that the Ag Preservation Foundation is an excellent program with which to leverage funding. Funds have been raised by the Sussex County Land Trust from private donations in the amount of \$125,000 and Council is being asked to match that amount with pledged funds, making the total Land Trust contribution for the Agricultural Lands Preservation Foundation \$250,000 in Round Ten. Mr. Davis distributed for Council's information a Delaware Agricultural Lands Preservation Foundation Current Situation Report and a copy of the Round Ten Agricultural Preservation Purchase Options. It was noted that the SCLT Board of Trustees reserves the right to select the farms to be included in the program.

M 186 05

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that the Sussex

**Authorize  
Sussex  
County  
Land Trust  
Expendi-  
ture/  
Ag Lands  
Foundation  
Adminis-  
trator's  
Report**

County Council authorizes the expenditure of \$125,000 of Sussex County's contribution to the Sussex County Land Trust for the Delaware Agricultural Lands Preservation Foundation.

**Motion Adopted:** 5 Yea.

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

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

**1. Holiday Schedule**

Sussex County government offices will be closed Friday, March 25, 2005, to allow employees to observe the Good Friday holiday. Offices will reopen on Monday, March 28, 2005, at 8:30 a.m.

There will not be a Council meeting on Tuesday, March 29, 2005. The next regularly scheduled County Council meeting will be on Tuesday, April 5, 2005, at 10:00 a.m. in the Council Chambers, County Administrative Office Building on The Circle in Georgetown.

**Audit  
Agreement  
Extension  
Recom-  
mendation**

Mr. Baker and Ms. Webb, Director of Accounting, discussed a recommendation that Council authorize extending the current audit agreement with Jefferson, Urian, Doane & Sterner, P.A., for a period of three years. Mr. Baker advised that the County's current agreement expires June 30, 2005, and does not include auditing services for Fiscal 2005. A handout was provided showing the audit costs for Fiscal 2004, as well as estimated costs under a three-year proposal to include the Regular Audit with CAFR Assistance, Single Audit A-133, Local Library Audits and Compilations, plus any additional work required. Mr. Baker stated that the auditors are very thorough and competent, knowledgeable regarding governmental accounting, and have done an excellent job over the last three years in assisting in preparation of the CAFR. In addition, they are a local firm with a main office in Sussex County, employing Sussex County residents. Ms. Webb agreed that Jefferson, Urian, Doane & Sterner and the County make a great team, the auditors work well with County staff, and the audit is usually very smooth and complete.

**M 187 05  
Authorize  
Three-  
Year  
Extension  
of Audit  
Agreement**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council authorizes an extension of the audit agreement for a three-year period with Jefferson, Urian, Doane & Sterner, P.A., beginning July 1, 2005, through June 30, 2008, subject to the approval of the County Attorney.

**Motion Adopted:** 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea

Old

Business/  
C/Z  
No. 1557

The County Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.16 ACRES, MORE OR LESS" (Change of Zone No. 1557) filed on behalf of Muddy Neck, L.L.C.

Old

Business/  
C/Z  
No. 1557

(continued)

The Planning and Zoning Commission held a Public Hearing on this application on October 21, 2004, at which time they deferred action. On November 18, 2004, the Commission recommended that the application be approved with 17 conditions.

(See the minutes of the Planning and Zoning Commission dated October 21 and November 18, 2004, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and their recommendation of approval. The summary was previously admitted as part of the County Council's record.

The County Council held a Public Hearing on this application on November 16, 2004, at which time action was deferred.

M 188 05

Adopt  
Ordinance  
No. 1763  
(C/Z  
No. 1557)

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1763 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.16 ACRES, MORE OR LESS" (Change of Zone No. 1557) filed on behalf of Muddy Neck, L.L.C., with the following conditions:

1. The maximum number of residential units shall not exceed 138 units as shown on the preliminary site plan—50 single-family units, 88 townhouse units. The applicant may increase the number of single-family units within the maximum number of units, but may not increase the number of townhouse units.
2. There shall not be any townhouse units along Double Bridges Road.
3. All entrance, intersection, interconnection, roadway, and multi-modal improvements required by DelDOT shall be completed by the applicant in

accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT.

M 188 05  
(continued)

4. Recreational facilities and amenities shall be constructed and open to use by residents of the project within two years of the issuance of the first building permit. These recreational facilities shall include a swimming pool and community buildings.
5. The project shall be served as part of a County-operated sanitary sewer district.
6. The project shall be served by a public central water system providing adequate drinking water and fire protection.
7. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with State and County requirements.
8. The interior street design shall comply with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design and the proposed reforestation program.
10. Construction, site work, grading, and deliveries of construction materials, landscape materials, and fill on, off, or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. to 6:00 p.m.
11. The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities, and other common areas. The applicant shall be responsible for this maintenance until such an association is formed.
12. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits.
13. State and Federal wetlands and the associated uplands areas shown on the applicant's conservation easement plan shall be placed under a conservation easement to ensure future protection and non-disturbance. The site shall have signs indicating the areas that are not to be disturbed.
14. A fence shall be erected along the western boundary from County Road 363 to the Federal wetland line.
15. There shall be a vegetated buffer along the boundary of the project adjacent to agricultural lands owned by the State. The buffer must be at least 50 feet in width.
16. The deeds to all properties or units within the project shall contain the Agricultural Use Protection Notice. In addition, the deeds shall contain a similar notice about hunting activities on adjacent properties.
17. Addressing shall be subject to review and approval of the Sussex County Mapping and Addressing Division.

Motion Adopted: 5 Yea.

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

Old

Business/  
C/Z  
No. 1558

The County Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Change of Zone No. 1558) filed on behalf of Rehoboth Canal Ventures, L.L.C.

Old

Business/  
C/Z  
No. 1558  
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004, at which time they deferred action. On December 9, 2004, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated November 18 and December 9, 2004, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and their recommendation of approval. The summary was previously admitted as part of the County Council's record.

Mr. Lank noted that the Planning and Zoning Commission recommended that Tax Map 3-34-19.08, Parcel 39.00, not be included in this rezoning or considered in density calculations for this property, as it is not contiguous to the rest of the property that is the subject of the application.

The County Council held a Public Hearing on this application on December 7, 2004, at which time action was deferred.

Mr. Cole expressed concern regarding the density permitted with the change of zone and the fact that Council is left with no control, once approved, since conditions cannot be placed on a change of zone application as opposed to a conditional use. Mr. Cole noted serious problems in the area, including sewer capacity and traffic, and stated that the change of zone would allow too much leeway for a future developer of the site to cause further problems in a sensitive area that is already experiencing many difficulties. It is Mr. Cole's feeling that the application would be much more appropriate as a conditional use.

M 189 05  
Adopt  
Proposed  
Ordinance  
(C/Z

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR HIGH DENSITY

**No. 1558)  
(DENIED)**      **RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Change of Zone No. 1558) filed on behalf of Rehoboth Canal Ventures, L.L.C.**

**Motion Denied:      3 Nay, 2 Yea.**

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

**M 190 05**      **Mr. Stickels presented grant requests for the Council’s consideration.**

**Youth  
Activity  
Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$750.00 from Mr. Jones’ Youth Activity Account to Georgetown Little League toward the purchase of a new tractor for field maintenance.**

**Motion Adopted:      5 Yea.**

**M 191 05**      **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Yea;  
Council-  
manic  
Grant      Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 from Mr. Cole’s Councilmanic Account to The Coalition for Tolerance and Justice and The Rehoboth Beach Film Society to cosponsor a film and discussion series entitled “Living with and without Tolerance and Justice: What is at Stake?”**

**Motion Adopted:      5 Yea.**

**M 192 05**      **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Yea;  
Youth  
Activity  
Grant      Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Account) to the Delaware Heritage Commission for camperships for the 2005 Hands On Delaware Heritage Camp.**

**Motion Adopted:      5 Yea.**

**M 193 05**      **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Yea;  
Council-  
manic  
Grant      Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$250.00 from Mr. Phillips’ Councilmanic Account to the Selbyville Middle School for the sixth grade EXCEL students’ field trip to Physics and Science Day at Hershey**



**Park.**

**Motion Adopted: 5 Yea.**

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

**M 194 05  
Grant**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to Peninsula Bluegrass for their annual festival.**

**M 194 05  
(continued)**

**Motion Adopted: 5 Yea.**

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

**M 195 05  
Youth  
Activity  
Grant**

**A Motion was by made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Youth Activity Account) to the Delaware Association of Conservation Districts for the Delaware Envirothon, a natural resource competition for high school students.**

**Motion Adopted: 5 Yea.**

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

**M 196 05  
Youth  
Activity  
Grant**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Jones' Youth Activity Accounts) to Delaware Magic Fastpitch Softball for tournament expenses.**

**Motion Adopted: 5 Yea.**

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

**M 197 05  
Youth  
Activity  
Grant**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$200.00 from Mr. Jones' Youth Activity Account to Delaware Stingers Field Hockey for sponsorship of Kelsey Johnson and Chelsea Collison (\$100.00 each) in the Field Hockey Marathon fundraiser.**

**Motion Adopted: 5 Yea.**

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

**Proposed  
Ordinance**

**Mr. Jones, Yea**

**Public  
Comments**

**M 198 05  
Recess**

**Reconvene**

**Attorney**

**Public  
Hearing  
(C/U  
No. 1592)**

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ATHLETIC FIELDS AND FUTURE SCHOOL AND POLE BARN FOR AGRICULTURE PROGRAM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 128.5 ACRES, MORE OR LESS" (Conditional Use No. 1627) filed on behalf of Woodbridge School District. The Proposed Ordinance will be advertised for Public Hearing.

Dan Kramer addressed Council regarding farmland preservation and the use of taxpayers' money toward this effort.

At 11:35 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

James D. Griffin, County Attorney, was present for the afternoon session.

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 MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 14,999 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1592) filed on behalf of Atlantic Eye Care.

The Planning and Zoning Commission held a Public Hearing on this application on February 17, 2005, at which time they recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated February 17, 2005, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Mr. Lank stated that additional correspondence was received from (1) the Sussex County Engineering Department, Planning and Permits Division, advising that the site is not within a County-operated and maintained sanitary sewer and/or water district, and (2) Terrie Portman, a neighboring property owner, which makes reference to concerns regarding parking spaces, parking

lot lights, signage and lighting in the front yard being illuminated at night, that there is no public septic or water, traffic, bike lane safety in the area, and speed limits.

Public  
Hearing  
(continued)

The Council found that Nelson Hayden, Practice Administrator/Business Manager for Atlantic Eye Care, and Fred Horn, architect, were present on behalf of the application. Mr. Hayden stated that the conditional use is for a single doctor practice; that the practice continues to grow; that a need exists for adequate eye care facilities for the retirement population; that the facility will enhance the quality of life for these new residents, as well as everyone's safety, by addressing their ability to drive and see clearly; that they presently rent space and have outgrown that space; that close proximity to Beebe Hospital will be maintained for emergency needs; that the residential character of the structure will be maintained; that they are converting a ranch-style home into an optical facility; that parking will be in the back; that the access driveway is from New Castle Street; that they are working with DNREC to obtain a permit for relocation of the septic field; and that they are working on the entrance design for submittal to DelDOT.

M 199 05  
Adopt  
Ordinance  
No. 1764  
(C/U  
No. 1592)

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

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 1764 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 14,999 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1592) filed on behalf of Atlantic Eye Care, with the following conditions:

1. One lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
2. Business hours shall be from 8:00 a.m. to 6:00 p.m., Monday through Saturday. There shall be no Sunday hours.
3. Security lighting shall be downward illuminated so as not to impact neighboring properties.
4. There shall be no parking in the front yard.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
6. The front elevation of the structure shall maintain a residential appearance and character.
7. Any dumpster location shall be subject to site plan review.

Motion Adopted: 5 Yea.

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

**Public  
Hearing  
(C/U  
No. 1593)**

**Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**Public  
Hearing  
(continued)**

**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 A PROPANE, KEROSENE, AND DIESEL FUEL STORAGE AND TRANSFER FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.03 ACRES, MORE OR LESS” (Conditional use No. 1593) filed on behalf of Wilson Baker, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on February 17, 2005, at which time they recommended that the application be approved with conditions.**

**(See the minutes of the Planning and Zoning Commission dated February 17, 2005, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their recommendation of approval. The summary was admitted as part of the County Council’s record.**

**Mr. Lank stated that additional correspondence was received from the Sussex County Engineering Department, Planning and Permits Division, advising that the site is not located in a County-operated or maintained sanitary sewer and/or water district and that an individual on-site septic system is proposed.**

**The Council found that Wayne Baker, President of Wilson Baker, Inc., was present with Dennis Schrader, Attorney, on behalf of the application and that they stated in their presentations that the application is for a propane, kerosene, and diesel fuel storage and transfer facility; that they have outgrown their existing facilities on Route 1 near Lewes and the Milton Service Center in Milton; that they intend to close the Lewes and Milton facilities; that they propose an office building with related storage and parking for customers and employees; that they propose six 60,000-gallon underground propane tanks, slightly mounded on the surface and covered with dirt; that they propose three heating oil and kerosene tanks with capacity less than 40,000 gallons each; that they propose a 30,000-gallon water storage tank for fire protection; that the fueling island will be for company trucks and customer accounts; that there will be no retail sales of gasoline, only an automated card system; that the site will be fenced; that this area has had problems getting propane during the winter months; that the proposed rail spur is a possible option to remedy acquiring propane; that presently all propane is delivered by truck; that they have not yet contacted DelDOT about the proposed two entrances; that the use will serve the area; and that Route 30 is a dedicated Truck Route.**

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| <b>M 200 05<br/>Adopt<br/>Ordinance<br/>No. 1765<br/>(C/U<br/>No. 1593)</b> | <p>There were no public comments and the Public Hearing was closed.</p> <p>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1765 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROPANE, KEROSENE, AND DIESEL FUEL STORAGE AND TRANSFER FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.03 ACRES, MORE OR LESS" (Conditional Use No. 1593) filed on behalf Wilson Baker, Inc., with the following conditions:</p> <ol style="list-style-type: none"><li>1. There shall be no truck repair performed on-site.</li><li>2. There shall be no retail sales of fuel for vehicles except for Wilson Baker customer accounts.</li><li>3. A landscape plan shall be a part of the final site plan.</li><li>4. The entrance shall be constructed per DelDOT requirements.</li><li>5. The site plan shall be subject to review and approval by the Planning and Zoning Commission and shall be similar to the plan submitted during the public hearing, unless altered by agency requirements.</li><li>6. The site shall be fenced with chain link fencing and subject to site plan approval.</li></ol> |
| <b>M 200 05<br/>(continued)</b>   | <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;<br/>Mr. Dukes, Yea; Mr. Rogers, Yea;<br/>Mr. Jones, Yea</p>   |
| <b>Public<br/>Hearing<br/>(C/U<br/>No. 1594)</b>                            | <p>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 OFFICE (SALES CENTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS" (Conditional Use No. 1594) filed on behalf of R. Craig Hudson.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on February 17, 2005, at which time they deferred action. On March 3, 2005, the Commission recommended that the application be approved with conditions.</p> <p>(See the minutes of the Planning and Zoning Commission dated February 17 and March 3, 2005, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)</p>   |

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

Mr. Lank stated that additional correspondence was received from the Sussex County Engineering Department, Planning and Permits Division, advising that the site is not located in a Sussex County-operated or maintained sanitary sewer and/or water district and that an individual on-site septic system is proposed.

Public  
Hearing  
(continued)

The Council found that Robert Peck, representing Schell Brothers (builder of projects off of Route 9 for Saddlecreek, L.L.C., current owner of the property), was present on behalf of the application and stated that the dwelling will be used as a display model to show the quality of their work and different materials they have to offer.

M 201 05  
Adopt  
Ordinance  
No. 1766  
(C/U  
No. 1594)

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

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1766 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE (SALES CENTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS" (Conditional Use No. 1594) filed on behalf of R. Craig Hudson, with the following conditions:

1. There will be only one lighted sign on the premises that shall not exceed 32 square feet per side or facing.
2. Any such sign erected will not advertise any off-premise property.
3. The current, non-permitted sign will be removed.
4. The "Options" Sales Center will be confined to the "garage" area with the balance of the building to be maintained as a model home.
5. A maximum of two salespersons may be housed for the "Options" sales in the "garage" area.
6. The project is specifically for an "Options" Sales Center and Model Home only. The project will not be occupied as offices for general contractors, contractors, general real estate salespersons or general retail operations.
7. No outside storage or construction equipment shall be allowed on the premises.
8. Any security lights shall only be installed on the building and shall not shine on neighboring properties.
9. All parking shall be confined to the rear of the property.
10. On-site water and septic shall be provided.
11. A landscape buffer/fence with a minimum five feet in height shall be maintained along all boundaries with adjacent residential properties.
12. The site plan shall be subject to review and approval by the Planning and

**Zoning Commission.**

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing  
(C/Z  
No. 1564)  
Public  
Hearing  
(continued)**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 2.6409 ACRES, MORE OR LESS” (Change of Zone No. 1564) filed on behalf of Julio Marcos.**

**The Planning and Zoning Commission held a Public Hearing on this application on February 17, 2005, at which time they recommended that the application be denied since the rezoning would be out of character with the area and inconsistent with the 2002 Comprehensive Plan Update.**

**(See the minutes of the Planning and Zoning Commission dated February 17, 2005, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their recommendation of denial. The summary was admitted as part of the County Council’s record.**

**The Council found that there were no parties present on behalf of the application.**

**M 202 05  
Adopt  
Proposed  
Ordinance  
(C/Z  
No. 1564)  
(DENIED)**

**The Public Hearing was closed.**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 2.6409 ACRES, MORE OR LESS” (Change of Zone No. 1564) filed on behalf of Julio Marcos.**

**Motion Denied: 5 Nay.**

**Vote by Roll Call: Mr. Cole, Nay; Mr. Phillips, Nay;**

**Reasons  
for Denial**

**Mr. Dukes, Nay; Mr. Rogers, Nay;  
Mr. Jones, Nay**

**Visitors/  
Delaware  
Tech  
Journalism  
Class**

**The Council denied this application since there were no parties present on behalf of the application and since there was no record of support.**

**Visitors  
(continued)**

**Mr. Jones recognized visitors in the audience from the Journalism Class at Delaware Technical & Community College. James Griffith spoke on behalf of the class. Clarification was requested on the difference between a change of zone and conditional use application, an explanation of the zoning process, and the procedure to obtain grant-in-aid funding for non-profit organizations through councilmanic or youth activity funds. Council was also advised that the class voted among themselves regarding the change of zone application of Rehoboth Canal Ventures, L.L.C., and their vote supported Council's denial of the application.**

**M 203 05  
Adjourn**

**A Motion was made by Mr. Rogers, seconded by Mr. Cole, to adjourn at 2:36 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Susan W. Webb  
Acting Clerk of the Council**