



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 19, 2005

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, April 19, 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.	President
Lynn J. Rogers	Vice President
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

M 246 05 Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 247 05 Approve Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of April 12, 2005.

Motion Adopted: 5 Yea.

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

Corre- spondence

Mr. Griffin read the following correspondence:

**MICHAEL R. NEW, REAL ESTATE SPECIALIST, UNITED STATES
POSTAL SERVICE, GREENSBORO, NORTH CAROLINA.**

RE: The selection of a new location for the new Lincoln, DE Post Office.

ELVA D. ALLEN, INDIAN RIVER SCHOOL DISTRICT, SELBYVILLE, DELAWARE.

RE: Letter in appreciation of the grant for the Minority Leadership Alliance Committee.

**Habitat
For
Humanity
Grant
Request**

Richard Faull, President, and Kevin Gilmore, Executive Director, of Sussex County Habitat for Humanity, were present to request funding in the amount of \$75,000 to support the work of Habitat for Humanity. Currently, the construction of three houses in Ellendale and a development consisting of 20 houses on German Road near Seaford are planned.

Mr. Faull stated that, given their extensive use of volunteer labor and interest-free mortgages, Sussex County Habitat for Humanity builds the most affordable houses in the County.

Mr. Stickels stated that he informed Mr. Faull that the request would be taken under consideration for the FY 2006 Budget.

Mr. Stickels reported that on October 26, 2004 the County Council approved a loan agreement with Sussex County Habitat for Humanity in the amount of \$50,000.00. The terms of the loan included a 20-year payback with monthly payments of \$208.34. Mr. Stickels reported that the loan has already been paid in full. It was agreed, as part of the loan agreement, that once the loan was repaid, the County Council would convert the funds to a grant in the amount of \$50,000.00.

Mr. Jones presented a check in the amount of \$50,000.00 to Sussex County Habitat for Humanity.

Mr. Stickels reported that, as part of the County's airport expansion project, the County is purchasing homes at the south-end of the runway. Mr. Stickels recommended that one of the homes, a mobile home valued at \$58,330.00, be declared as surplus property and awarded to Sussex County Habitat for Humanity, contingent on the home being removed from the site within one year.

**M 248 05
Declare
Surplus
Property**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the 1,568 sq. ft. house, which is located on Sussex County Tax Map 1-35-20 Parcel 92.02, be declared as surplus property and that the house be awarded to Habitat for Humanity, contingent on its removal by April 19, 2006.

Motion Adopted: 5 Yea.

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

Wastewater Facilities **Mr. Stickels reviewed information relating to the construction of wastewater facilities.**

M 249 05 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon**
Execute **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 395, that the Sussex**
Agreement **County Council execute a Construction Administration and Construction**
M 249 05 **Inspection Agreement between Sussex County Council and Carl M.**
(continued) **Freeman Communities, for wastewater facilities to be constructed in**
 Americana Bayside – Phase 4, located in the Fenwick Island Sanitary Sewer
 District.

Motion Adopted: 5 Yea.

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

M 250 05 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon**
Execute **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 396, that the Sussex**
Agreement **County Council execute a Construction Administration and Construction**
 Inspection Agreement between Sussex County Council and Carl M.
 Freeman Communities, for wastewater facilities to be constructed in
 Americana Bayside – Phase 5, located in the Fenwick Island Sanitary Sewer
 District.

Motion Adopted: 5 Yea.

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

M 251 05 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon**
Execute **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 500, that the Sussex**
Agreement **County Council execute a Construction Administration and Construction**
 Inspection Agreement between Sussex County Council and Carl M.
 Freeman Communities, for wastewater facilities to be constructed in
 Americana Bayside – Phase 8, located in the Fenwick Island Sanitary Sewer
 District.

Motion Adopted: 5 Yea.

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

M 252 05
Execute
Wastewater
Agreement

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 382, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Peninsula at Long Neck LLC, for wastewater facilities to be constructed in The Peninsula – Windswept, located in the Long Neck Sanitary Sewer District.

M 252 05
(continued)

Motion Adopted: 5 Yea.

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

M 253 05
Execute
Wastewater
Agreement

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 363, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Ellis Point LLC, for wastewater facilities to be constructed in The Greens, located in the Holts Landing Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Hold Exec.
Session

Mr. Stickels asked Council to authorize an Executive Session to be held to discuss pending or potential litigation.

M 254 05
Recess and
go into
Executive
Session

At 10:30 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to go into Executive Session to discuss pending or potential litigation.

Motion Adopted: 5 Yea.

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

Executive
Session

At 10:35 a.m., an Executive Session of the Sussex County Council was held to discuss pending or potential litigation.

M 255 05
Come
out of
Executive
Session

At 10:45 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session of the Sussex County Council meeting.

Motion Adopted: 5 Yea.

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

Subdivision Appeal/ The County Council discussed an appeal filed by John A. Sergovic, Jr., attorney for the developer of The Meadows at Creek Run, regarding the Planning and Zoning Commission's decision to deny their preliminary subdivision application request and their request for reconsideration.

Subdivision Appeal/ The Meadows at Creek Run The County Council held a Public Hearing on this appeal on February 8, 2005. At that time, Mr. Lank, Director of Planning and Zoning, reviewed the reasons for the Commission's denial of the application and the request for reconsideration:

- (continued)**
1. The Commission was not satisfied that the subdivision complies with the requirements of the Subdivision Ordinance.
 2. Nearly all of the other land in the area of this project is used for agricultural purposes, and much of the land is in an Agricultural Preservation District. This proposal would not be in character with the surrounding uses.
 3. The project is along a part of Road 257 that is not suitable for a development such as this. Road 257 is a road with many curves and is narrow. In addition, the road is used frequently by farm equipment. The proposed subdivision is not compatible with this road.
 4. The project would adversely affect the adjacent natural areas, including wetlands and Beaverdam Creek if approved. It is also not integrated into the existing terrain.
 5. The project, with its main entrance onto Road 257 and several individual lots with direct access onto Road 257, does not allow for safe vehicular movement as required by the Subdivision Ordinance.

On February 8, 2005, the County Council deferred action to allow the County Attorney an opportunity to review Delaware case law cited in reference to the Application and the Appeal.

The County Council referred to Section 99-9 C of the Subdivision Ordinance, which lists seventeen (17) items to be considered in deciding whether to give preliminary plot approval for a subdivision. The Commission's reasons for denying the application were based on this criteria and the belief that the applicant did not satisfy all of the items listed. Mr. Sergovic argues that his client satisfied all of them.

Mr. Griffin told Council that their options relating to the appeal would be to affirm or disagree with the decision of the Planning and Zoning Commission.

M 256 05 Subdivision Appeal/ Uphold A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to support the decision of the Planning and Zoning Commission to deny the subdivision application of Kaplan, Gallo & Howett (Subdivision No. 2003-50, The Meadows at Creek Run).

**Decision
of the
Planning
and
Zoning
Commission**

Motion Adopted: 4 Yea, 1 Nay.

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

**Adminis-
trator's
Report**

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

1. Public Meeting

A public meeting will be held on Tuesday, April 26, 2005, at the Greenwood Library. The public is encouraged to drop by from 2:00 to 7:00 p.m. to share visions for the Greenwood Library of the future.

**Public
Hearing
(C/Z
No. 1554)**

Mr. Cole did not participate in the discussion on Change of Zone No. 1554, an application of Marine Farm, L.L.C. since he was not in attendance at the Public Hearing on October 12, 2004.

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373.82 ACRES, MORE OR LESS" (Change of Zone No. 1554) filed on behalf of Marine Farm, L.L.C.

Mr. Lank, Director of Planning and Zoning, reported that on September 23, 2004 the Planning and Zoning Commission held a Public Hearing on this application, at which time they deferred action. On February 3, 2005, the Commission recommended that the application be approved with sixteen (16) conditions.

The County Council held a Public Hearing on this application on October 12, 2004, at which time they deferred action and left the record open for fifteen (15) days for DelDOT's comments and for the Planning and Zoning Commission's recommendation, and for an additional (15) days for public review of any comments received.

The record was left open for additional comments from DelDOT since Mr. Ralph Reeb, Director of Planning for DelDOT, requested more time for DelDOT to complete additional analyses of the Marine Farm residential development. Specifically, they wanted to study the effects of the project on Jim Town Road, which was not included in the Developer's Traffic Impact Study. DelDOT's findings were that (1) as part of the development's

Public
Hearing
(C/Z
No. 1554)
(continued)

entrance construction, the developer should be required to improve Jim Town Road in a manner acceptable to DelDOT's Subdivision Engineer (the developer's obligation shall exclude Bridge 712, which is to be improved by DelDOT) and (2) prior to the issuance of building permits, the developer should be required to enter into an agreement with DelDOT, whereby the developer would fund the cost of installing a traffic signal at the Jim Town Road and Beaver Dam Road intersection when DelDOT finds that such a signal is warranted.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and their recommendation of approval.

Council noted that the project is a low density project with 1.68 units per acre.

Mr. Griffin suggested a change to Condition #13 recommended by the Commission, which states that "The 42 acre "Wildlife Habitat Area" surrounding the existing bald eagle nest shall remain an open natural area in perpetuity, as shown on the Preliminary Site Plan." Mr. Griffin noted that if it is to be a requirement that the area remain open in perpetuity, the Council may want to consider adding language that a conservation easement be required and be subject to the approval of the County Attorney.

Mr. Rogers recommended that the conditions should contain a reference to the applicant's commitment that the residents of Jim Town will pay no connection fees to hook up to sewer service and no costs for construction or upsizing of the central water service system. In addition, the applicant has stated that they are willing to provide (at their sole expense) roadway, sidewalk, streetlights, signage, and water and sewer improvements to the extent that the residents collectively choose to have them.

In regards to Mr. Rogers' recommendation, Mr. Dukes referenced a letter dated December 17, 2004 from Frank Kea, Vice President of Operations of Marine Farm, L.L.C., to Rosalyn Echols. In the letter, Mr. Kea outlines the offer that they are making to the residents of Jim Town. Mr. Dukes stated that he wants to make sure that the contents of the letter (Page 6 - bold print) are made a part of the conditions of approval.

It was noted that the residents of Jim Town would have the option of hooking up to sewer service. In regards to this, Council members expressed concern that the offer should not be open-ended. It was suggested that there be a deadline of 2 to 3 years or a stipulation that the offer would be available solely to the original owner of the property.

It was the consensus of the Council that the letter dated November 18, 2004 to the residents of Jim Town from Marine Farm, L.L.C. and the letter of December 17, 2004 (page 6) to Robert Stickels from Marine Farm, L.L.C. should be a made part of the conditions of approval. This information is to be added as Condition No. 17 and is to be written by the Director of

Planning and Zoning and the County Attorney.

- M 257 05
Adopt
Proposed
Ordinance** **A Motion was made 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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373.82 ACRES, MORE OR LESS” (Change of Zone No. 1554) filed on behalf of Marine Farm, L.L.C., with seventeen (17) conditions.**
- M 257 05
(continued)** **conditions.**
- Public
Comment** **Mike Tyler spoke out that the Council was omitting any reference to the preservation of the two burial sites that are located on the property.**
- Mr. Stickels noted that there is existing Federal and State laws governing the preservation of burial sites.**
- Motion
Died** **Mr. Dukes’ Motion died for the lack of a Second.**
- Add
Condition** **Mr. Dukes suggested that an eighteenth condition be added that “The applicant shall comply with all Federal and State laws and regulations relating to cemeteries.”**
- M 258 05
Adopt
Ordinance
No. 1770
(C/Z
No. 1554)** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1770 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373.82 ACRES, MORE OR LESS” (Change of Zone No. 1554) filed on behalf of Marine Farm, L.L.C., with the following conditions:**
- 1. The maximum number of dwelling units shall not exceed 630 of which at least 432 shall be located on single family lots. The 20 lots with roadway connection to Jim Town Road shall be eliminated. The roadway connection to Jim Town Road shall also be eliminated.**
 - 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determinations.**
 - 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These amenities shall include a swimming pool, bath house and tennis courts.**

**M 258 05
Adopt
Ordinance
No. 1770
(C/Z
No. 1554)
(continued)**

- 4. The development shall be served by central sewer.**
- 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. If it is determined that additional areas are required for stormwater management, parking or other use, the additional area shall be taken from lot areas, not designated Federal or State wetlands or other open space areas.**
- 7. The Applicant, its successors and/or assigns, including a homeowners association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices (BMPs) as further described in the Applicant's documents submitted into the record.**
- 8. Wetlands shall not be included in individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. There shall be a minimum of a 50 foot setback from all non-tidal wetlands.**
- 9. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.**
- 10. Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.**
- 11. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. The street design shall include curbs, sidewalks, and street lighting.**
- 12. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design which shall include a screen of trees planted around the perimeter of the Bald Eagle preserve area.**
- 13. The 42-acre "Wildlife Habitat Area" surrounding the existing bald eagle nest shall remain an open natural area in perpetuity, as shown on the Preliminary Site Plan and shall be subject to a Conservation Easement subject to approval by the County Attorney.**
- 14. Construction, site work, grading, and deliveries of construction materials, landscaping 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. and 6:00 p.m.**

**M 258 05
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Ordinance
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(C/Z
No. 1554)
(continued)**

15. The Applicant shall cause to be formed an association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas which shall have the responsibility of enforcing the restrictive covenants, which shall give notice to buyers that they are buying in a development that is located in an agricultural area and an area where hunting activities are carried out.
16. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
17. The applicant shall provide the improvements that they offered to the residents of Jimtown as described in their letter of November 18, 2004, as described below:

A. Sewer

At its sole cost and expense, Marine Farm, LLC will provide the residents of Jimtown with access to the Marine Farm sewerage treatment plant with capacity for the homes currently existing within Jimtown at the time of this agreement and one home per vacant lot or parcel existing at the time of this agreement on the lots currently in the area specifically recognized by Sussex County as Jimtown in the area north of the existing bridge on Jimtown Road at Gosling Creek to Beaver Dam Road.

At its sole cost and expense, Marine Farm, LLC will provide a sanitary sewer transmission system of sufficient size to convey the Jimtown sewerage through the Marine Farm sanitary sewer system to the Marine Farm sewerage treatment plant within three (3) years of the commencement of construction on the Marine Farm site.

At its sole cost and expense, Marine Farm, LLC will engineer and install an 8" sanitary sewer gravity line within Jimtown Road from the intersection of Jimtown and Beaver Dam Road to its connection with the Marine Farm sanitary sewer system including one lateral per home or lot as defined above.

At its sole cost and expense, Marine Farm, LLC will treat such sewerage and the home, lot or parcel owners will be charged no tap or connection fee nor will any resident of Jimtown be required to hook up to the system until and if he or she chooses.

Each resident of Jimtown that chooses to hook up to the Marine Farm sanitary sewer system, with such hookup being solely at the discretion of each individual property owner, will pay the same rate for treatment that all other Marine Farm residents pay as governed by the Delaware Public Service Commission.

At its sole cost and expense, Marine Farm, LLC will dispose of treated Jimtown sewerage on the Marine Farm disposal site.

B. Water

Marine Farm, LLC will coordinate with Tidewater Utilities, Inc. who is providing domestic water and fire protection service for Marine Farm and a representative of Jimtown in an effort to secure the water company's agreement to extend such service to the Jimtown lots or homes. Marine Farm, LLC will coordinate and pay for all engineering and construction costs associated with the such facilities as well as the cost of upsizing of the water treatment plant and tower (if any) and all water lines.

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No. 1554)
(continued)**

C. Street Lights:

If desired by the residents of Jimtown, within one (1) year of the commencement of construction, Marine Farm, LLC at its sole cost and expense will provide for the installation of all street lights required by DelDOT together with such other street lights as are represented by a number that is consistent with one street light every 100' from the existing bridge within Jimtown Road to the intersection of Jimtown Road and Beaver Dam Road. Additionally, all street light rental or service charges (for these street lights only) will be bourn by Marine Farm, LLC its successors or assigns.

D. Sidewalks:

If desired by the residents of Jimtown, within one (1) year of the commencement of construction, Marine Farm, LLC at its sole cost and expense will provide a sidewalk (asphalt or concrete as required by approval agencies or concrete if no agency objects and the residents of Jimtown indicate this preference) either within the Jimtown Road right-of-way on one side of Jimtown Road from the existing bridge within Jimtown Road to the intersection of Jimtown Road and Beaver Dam Road in accordance with review and approval by DelDOT and Sussex County or outside of the right-of-way on the Jimtown lots from and to the same points on one side of the road.

E. Jimtown Road Improvements:

Marine Farm, LLC will provide at its sole cost and expense all roadway improvements required by DelDOT as indicated in the final approval letter issued by DelDOT including all Jimtown Road improvements. In addition, Marine Farm, LLC will, together with a Jimtown representative, petition DelDOT to

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No. 1554)
(continued)**

install speed limit and caution signs for children at play. If accepted by DelDOT, Marine Farm, LLC will secure such signs at its sole cost and expense and install them in accordance with DelDOT standards. Additionally, if not otherwise required by DelDOT and with DelDOT approval, Marine Farm, LLC will provide at its sole cost and expense an asphalt top coat over the portion of Jimtown Road from the existing bridge within Jimtown Road to the intersection of Jimtown Road and Beaver Dam Road together with any roadway striping acceptable to DelDOT within that same portion of roadway.

F. Roadway Connections from Marine Farm to Jimtown Road:

Given the concerns over traffic and safety issues expressed by the residents of Jimtown and consistent with the letter from Marine Farm, LLC to Mr. Lawrence Lank, Director of Planning and Zoning, dated October 20, 2004, Marine Farm, LLC will:

- (1) Remove the proposed roadway connection from the main portion of Marine Farm to Jimtown Road.
- (2) Delete the 20-lot portion of land with its roadway connection from the Marine Farm Community thus removing all roadway connections from Marine Farm to Jimtown Road.

G. Reese's Lane and the Reese Property:

As discussed with Mr. and Mrs. Reese, Marine Farm, LLC will convey the property on which the existing Reese's Lane driveway exists together with appropriate permanent access easements to Mr. and Mrs. Reese and the parties abutting the driveway in a manner suitable to both.

Also as discussed with Mr. and Mrs. Reese, Marine Farm, LLC will convey sufficient property to the Reeses to solve existing encroachment problems in a manner consistent with Sussex County regulations.

H. Other

Marine Farm, LLC will provide a 50' minimum forested or landscaped buffer between all Jimtown properties and Marine Farm lots.

As the Applicant offered in a letter dated December 17, 2004 to the County Administrator, the Applicant has voluntarily committed to the following, which shall be additional conditions of the approval:

- M 258 05**
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No. 1770
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(continued)
- (1) Roadway, sidewalk, street light, signage, water and sewer improvements outlined in Marine Farm, LLC's letters to the residents of Jimtown to the extent that the residents collectively choose to have them.**
 - (2) Jimtown residents will pay no connection fees to hook up to the Marine Farm central sewer system.**
 - (3) Jimtown residents will pay no costs for construction or upsizing of the central water service system to include them.**
- 18. The Applicants shall comply with all State and Federal laws and regulations relating to cemeteries.**
- Motion Adopted: 4 Yea, 1 Abstention.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Abstained;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- Joy Beach**
Project/
Change
Order
Correction
- Mr. Izzo, County Engineer, reviewed a correction to Change Order No. 1 to the Joy Beach Suburban Community Improvement Project. He informed the Council that in closing out the project, it was determined that there was an error. He noted that the change order has never been executed by either the County or the contractor. The original change order showed a credit balance of approximately \$23,000.00; the actual credit should have been \$29,056.85.**
- M 259 05**
Approve
Corrected
Change
Order
- A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Corrected Change Order No. 1 be approved for Sussex County Project No. 04-01, Joy Beach Suburban Community Improvements, to balance quantities, providing a credit of \$29,056.85, decreasing the contract price from \$152,625.00 to \$123,568.85.**
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- Introduction**
of Proposed
Ordinance
- Mr. Dukes introduced 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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.70 ACRES, MORE OR LESS OF A 5.08 ACRE TRACT" (Change of Zone No. 1582)**

filed on behalf of MARDELVA, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.499 ACRES, MORE OR LESS, FOR THE TREATMENT PLANT SITE AND 6.527 ACRES, MORE OR LESS, FOR A RAPID INFILTRATION BASIN” (Conditional Use No. 1629) filed on behalf of Handler Mitchell Properties – Route 5, LLC (Stonewater Creek, LLC). The Proposed Ordinance will be advertised for Public Hearing.

Introduction (continued)

Additional Business/ Public Comments Dan Kramer commented that he doesn’t understand why developers come in for Council’s approval of a project when they can build high density projects without the Council’s approval. He also stated that he believes the County should change its ordinance and permit tall buildings throughout the entire County.

M 259 05 Recess At 11:58 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

Public Hearing (C/U No. 1600) A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1600) filed on behalf of Robert E. Kuhl and Kim C. Kuhl.

The Planning and Zoning Commission held a Public Hearing on this application on March 31, 2005 at which time they recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated March 31, 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. The summary was admitted as part of the County Council’s record.

Mr. Lank stated that a revised site plan had been submitted to correct the parking layout, moving the six parking spaces from the street right-of-way

to under the duplex. He noted that the site plan will still be subject to the approval of the Planning and Zoning Commission.

The Council found that Robert and Kim Kuhl were present with Harold E. Dukes, Jr., Attorney. They stated that they propose to build a duplex like the rest of the neighbors on the street and that the use will be compatible with the ongoing activities in the Tower Shores Subdivision.

Public
Hearing
(C/U
No. 1600)
(continued)

Mr. Lank explained that the Commission's recommended condition that "The density shall be subject to review and approval by the Sussex County Board of Adjustment." is because the parcel is only 6,000 square feet; the density calculation per unit is 3,270 square feet per unit; and they would need a variance of approximately 1,270 square feet (as all the other Tower Shores' residents have done in the last ten years).

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

M 260 05
Adopt
Ordinance
No. 1771
(C/U
No. 1600)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1771 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1600) filed on behalf of Robert E. Kuhl and Kim C. Kuhl, with the following conditions:

1. The density shall be subject to review and approval by the Sussex County Board of Adjustment.
2. Only two units shall be constructed upon the property.
3. The development shall be served as part of a Sussex County Sanitary Sewer District.
4. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 8:00 a.m. and 6:00 p.m.
5. The site plan shall be revised to correct the parking layout.
6. The site plan shall be subject to approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/Z
No. 1568)

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A

CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.61 ACRES, MORE OR LESS” (Change of Zone No. 1568) filed on behalf of Harold E. Dukes, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on March 31, 2005 at which time they recommended that the application be approved.

**Public
Hearing
(C/Z
No. 1568)
(continued)**

(See the minutes of the Planning and Zoning Commission dated March 31, 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. The summary was admitted as part of the County Council’s record.

The Council found that Harold Dukes was present with Zach Crouch of Davis, Bowen & Friedel, Inc. Mr. Dukes stated that, over the years, he has seen a need for centers for small businesses and organizations; that he started a center years ago on Route 9; that he created a division within the buildings for small business users; that he proposes a similar project on Route 5; that the existing building on the site was approved as a conditional use for a motorcycle repair facility; that he plans to construct several buildings behind the existing building; that there is a waiting list for tenants; that the type of businesses he rents to do not have a lot of activity; that he applied for B-1 zoning based on the recommendations of the PLUS agencies; and that several other commercial uses exist in the area.

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

**M 261 05
Adopt
Ordinance
No. 1772
(C/Z
No. 1568)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1772 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.61 ACRES, MORE OR LESS” (Change of Zone No. 1568) filed on behalf of Harold E. Dukes, Jr.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1569)**

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 32,962 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1569) filed on behalf of Henry W. Gray.

**Public
Hearing
(C/Z
No. 1569)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on March 31, 2005 at which time they recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated March 31, 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. The summary was admitted as part of the County Council’s record.

The Council found that no one was present on behalf of the application.

There was a consensus of the Council to defer action until the end of the meeting in case the applicant appeared.

**Public
Hearing
(C/Z
No. 1570)**

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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.46 ACRES, MORE OR LESS” (Change of Zone No. 1570) filed on behalf of William and Leslie Brown.

The Planning and Zoning Commission held a Public Hearing on this application on March 31, 2005 at which time they recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated March 31, 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. The summary was admitted as part of the County Council’s record.

The Council found that Bill Brown, owner of Bargain Bill’s Flea Market, was present and stated that the project was approved by the County in 2004; that since that time the site plan has had to be amended; that the final site plan for the project has now been approved; that the site engineer miscalculated the size of the ponds (there were three and now there are four); that they purchased this additional land because of the surveying error; that the expansion does not affect the irrigation system; that the

expansion is proposed for parking and stormwater management; that the flea market entrance on Route 9 will be relocated farther east, away from the intersection of Route 9 and U.S. Route 13; that DelDOT has approved the new entrance; and that this rezoning will bring the entire site into one zoning classification (C-1).

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

**M 262 05
Adopt
Ordinance
No. 1773
(C/Z
No. 1570)**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1773 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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.46 ACRES, MORE OR LESS” (Change of Zone No. 1570) filed on behalf of William and Leslie Brown.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1572)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 79.432 ACRES, MORE OR LESS” (Change of Zone No. 1572) filed on behalf of Riverview, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 31, 2005 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated March 31, 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. The summary was admitted as part of the County Council’s record.

Mr. Lank distributed an Exhibit Booklet dated June 2004, an Exhibit Booklet dated March 2005, and an aerial photograph of the area.

Mr. Lank reported that one additional piece of correspondence was received since the Commission’s Public Hearing on March 31st. The letter was from Caldera Properties and signed by Matthew Mathias, Development

Project Manager. In the letter, Mr. Mathias reports a correction in one of their documents, dated March 24, 2005. The error, which was in the Executive Summary (first paragraph, second page), made reference to square footage of disturbance and should be revised to read 29,760 square feet rather than 84,500 square feet. In the same sentence, the approximate amount of tidal wetland disturbance should be revised to 9,600 square feet instead of 42,400 square feet. The corrected letter was made a part of the record.

**Public
Hearing
(C/Z
No. 1572)
(continued)**

The Council found that Frank Kea and Rick Polk of Riverview, LLC were present with James Fuqua, Jr., Attorney, and Ed Launay of Environmental Resources, Inc. Mr. Fuqua reported that, at the time the application was filed, a summary booklet was submitted that contained the environmental report; recently, an additional exhibit book was submitted containing additional documents. Mr. Fuqua stated that the application is for a Residential Planned Community for a development containing 72 single family detached condominium units and recreational facilities; that the property contains a total of 79.4 acres; that the property is located in a growth area under the County's Comprehensive Land Use Plan – in the Environmentally Sensitive Developing Area; that the site has been zoned MR Medium Density Residential for at least the past thirty years; that the property is part of the property that was approved as a RPC in 1974 (C/Z No. 220 – Walters Bluff) which was never developed and was voided for lack of development; that an old family cemetery is located on the site and the precise boundaries of that cemetery will be delineated and the cemetery will be preserved and maintained by the Homeowner's Association; that access to the cemetery by the family members and the public will be provided and parking for visitors to the cemetery will be provided; that studies performed by the applicant included a Phase I Environmental Site Assessment that was prepared by Atlantic Resource Management that found that there was no evidence of any environmental hazardous conditions on the property that would affect the residential development of the site; that a wetlands delineation was completed by Environmental Resources Inc.; that the development will be located on the non-wetlands portion of the property; that no wetlands will be impacted by the development with the exception of an entrance bridge which will provide access to the property; that this access is the only legal access to the Riverview property; that at the PLUS meeting, both DNREC and the County recommended that an alternative access be considered; that such an alternative access would have to cross the adjacent lands (owned by Barbara Murray); that Riverview LLC has been attempting to acquire access over the Murray property for some time either through an easement, purchase, or trade but they have not been able to reach any agreement for the alternative access; the site will be served by central water and sewer service; and that the proposed development is in character with other developments in the area.

Mr. Kea reviewed the design of the development and the LUPA comments received during the PLUS Process. He stated that the character of the homes will be in keeping with the beach area architecture; that the

Public
Hearing
(C/Z
No. 1572)
(continued)

amenities for the project will include a swimming pool and a recreational center and will be located in the center of the site; that the bridge will be built to public road standards; that they hope to build a pedestrian bridge from the uplands to the waters edge; that the site contains approximately 16 acres; that they propose to preserve the remaining wetlands in permanent conservation easement; that the site is within the 100-year flood plain; that the bridge will be elevated above the minimum flood elevation; that the first floor of the houses will have to be elevated above the 100-year flood plain; that the roads have to be constructed so that they will be inundated only a foot in any 100-year storm; that the proposed bridge is the same bridge constructed at Ellis Point and it would be constructed by the same company; that the bridge will be 25-foot wide with a 5-foot wide pedestrian walkway separated by a guardrail; that the timber bridge would be 1,300 feet long with approximately 1,230 feet crossing wetlands; and that no Traffic Impact Study was required.

Mr. Kea referred to the LUPA letter and Mrs. Holland's comment that the applicant ignored the LUPA comments and did not do anything to address the concerns. He stated that there was no need to change the plan as a result of the comments that were made (project located in the Environmentally Sensitive Developing Area, wetlands on the site, one access to the site, etc.) Mr. Kea stated that they responded to Mrs. Holland that they don't know what significant environmental issue she is referring to; that they talk about wetlands on the site and that they use their own wetlands maps which are notoriously incorrect; that they also refer to the fact that they should perform a wetlands jurisdictional determination; that a wetlands identification has been done by Ed Launay and a determination will be made by the Army Corp of Engineers; that they have addressed their concern about evacuation; that they have identified the cemetery on the site and will comply with the laws on the preservation of it; that DelDOT has concerns about the one point of access but there is no other choice and it is the only way onto the site; that they would provide another access if they could obtain the land from Mrs. Murray; that they understand what the soils are and will engineer accordingly; that the comments state that they are occupying land that is wet and that they are not; that they understand they have to go through the permit process; that they have performed a full nutrient accounting; that they have the required 50-foot buffer off tidal wetlands; and that they have at least a 30-foot buffer off of agricultural lands. Mr. Kea concluded by stating that they did not ignore the LUPA comments; that they responded to all of their comments; that there was no need to change the plan; that they are in compliance with the law as they understand it; and that they will be in compliance with all requirements as they go through the process.

Mr. Polk discussed the bridge construction and fire evacuation, and Mr. Launay discussed the wetlands. Their comments were the same as those reported in the summary presented by Mr. Lank, dated April 19, 2005.

It was noted that the project is 79.4 acres; that 16 acres is uplands and will

be developed for residential uses; that the remaining 62 acres of tidal wetlands will be proposed to be put in a conservation easement and donated to a group such as the Sussex County Land Trust.

Mr. Fuqua submitted proposed conditions and findings of fact and they were admitted as part of the record.

Public
Hearing
(C/Z
No. 1572)
(continued)

Mr. Fuqua commented that Barbara Murray and her family own the adjacent property; that she objects to the proposed development and in particular, the proposed bridge; that she is the owner of the adjacent land that would provide an alternate access to the site; and that it was the Murray family that sold the property in the first place that resulted in it subsequently being purchased by Riverview LLC.

Mr. Cole suggested that Mr. Fuqua supplement his proposed conditions to address lighting on the bridge and the removal of trees in the buffer area.

The Council found that there were no parties present in support of this application.

The Council found that Barbara Murray (adjoining landowner) was present with Michael Malkiewicz, Attorney, in opposition to the application and that they stated in their opposition that this is a very important application from a precedence point of view; that no known bridge of this magnitude has been built over fresh water wetlands, tidal wetlands, and a fresh water pond; that the fresh water pond was not even mentioned by the applicant; that approving this bridge will set a precedent in the County of permitting bridges over areas with environmental issues; that there are uplands between the two-lane road going back into the property that can be developed; that no bridge has to be built and lots could be put on that property; that if County sewer becomes available, additional lots could be developed in the uplands; that the applicant could do something with the property without the bridge; that they could still build on two acres; that she has rejected offers to sell land to the applicant and there is no deal and there will be no deal; that she owns farmland surrounding this site; that the creation of an alternative access across the Murray property would impact the use of the Murray property; that the applicants have not revised the site plan per the recommendation of the PLUS comments; that this will be the largest timber bridge in the County; that there should be safety concerns about the bridge, such as fire, accident or natural disaster; that if the bridge is destroyed, there will be no access to the property; that a major concern should be that there is only one access to the site; that trees will be removed or destroyed by creation of the bridge; that the wetlands will be impacted or lost; that County sewer will not be available for several years; that the proposal is to build on an island in the middle of the marsh; that there are many health and safety concerns such as noise, chemicals, possibility of fires, lighting, EMS services, etc.; that there is a high potential for fire in the wetlands; that the wetlands may be impacted by dripping fluids from

**Public
Hearing
(C/Z
No. 1572)
(continued)**

vehicles using the bridge; that the proposal does not meet the goals of the Comprehensive Plan; that the development has the potential to create significant adverse environmental impacts; that her main goal is to preserve the natural beauty of Walter's Bluff Farm and to maintain its environmental integrity; that the greatest impact from the development will be created by the bridge; that the bridge will create blight on the landscape and change the character of the land; that the bridge will not be quaint; that the noise from the cars will be intrusive; that the habitat value of the wetlands for wildlife will be diminished; that the proposal violates the RPC Ordinance; and that the Council should take into account the credibility of the applicant.

The Council found that Mr. Malkiewicz presented correspondence about access, photographs of the area, and an exhibit board showing the profile of a 1,400 foot bridge.

At the conclusion of the Public Hearing, the Council discussed leaving the record open for supplemental conditions from the Applicant, suggested conditions from the opposition, and/or any new written testimony.

Mr. Cole asked that alternative conceptual plans for a MR Subdivision be submitted by the applicant and/or the opposition.

Mr. Stickels suggested that the Council defer action on Change of Zone No. 1572, to leave the record open until the close of business on April 26, 2005 for new written testimony and until the close of business on May 3, 2005 for comments on any information received. No action was taken on this suggestion.

**M 263 05
Close
Public
Hearing
(C/Z
No. 1572)
(DENIED)**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to close the Public Hearing on Change of Zone No. 1572.

Motion Denied: 3 Nay, 2 Yea.

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

**M 264 05
Defer
Action and
Leave
Record
Open
(C/Z
No. 1572)**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to defer action on Change of Zone No. 1572 and to leave the record open until the close of business on April 26, 2005 for written comments from the Attorneys representing the Applicant and the opposition.

Motion Adopted: 3 Yea, 2 Nay.

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

**Reopen
Public
Hearing
on C/Z
No. 1569**

The Council reopened the Public Hearing 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 32,962 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1569) filed on behalf of Henry W. Gray.

**Public
Hearing
(continued)**

The Council found that no one was present on behalf of the application.

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

**M 265 05
Adopt
Proposed
Ordinance
(C/Z
No. 1569)
(DENIED)**

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 32,962 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1569) filed on behalf of Henry W. Gray.

Motion Denied: 4 Nay, 1 Absent.

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

**M 266 05
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 5:03 p.m. Motion Adopted by Voice Vote.

Respectfully submitted

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