



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 4, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, May 4, 2004, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 288 04 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the
Amend and Agenda by deleting "Russell Archut, Assistant County Engineer, Holts
Approve Landing Sanitary Sewer District, Collection and Conveyance System
Agenda Improvements, Change Order No. 1" and to approve the Agenda, as
 amended.

Motion Adopted: 5 Yea.

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

M 289 04 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve minutes of April 27, 2004.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Griffin read the following correspondence:
spondence

**ELVA ALLEN, MINORITY LEADERSHIP ALLIANCE COMMITTEE,
SUSSEX CENTRAL HIGH SCHOOL, GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of grant.

**Live Near
Your Work
Program
(DSHA)
Live Near
Your Work
Program
(DSHA)
(continued)**

Fernando Guajardo and Cathy Gregory of the Delaware State Housing Authority were in attendance to ask for the County's participation in the State of Delaware Live Near Your Work (LNYW) Program. The Program is an employer-driven initiative designed to promote home ownership and to increase employee retention. The Program is a cooperative partnership among employers, local jurisdictions and the Delaware State Housing Authority (DSHA). The Program provides financial assistance to eligible employees who purchase homes near their place of employment. The Program utilizes financial support provided by the State, participating local jurisdictions and employers to offer down-payment and/or closing cost assistance to eligible employees purchasing homes in targeted neighborhoods. Employers have to provide a minimum of \$1,000 to participate in the program. Employees are required to contribute an equal amount, plus any other necessary financing for the purchase of their homes.

Mr. Guajardo stated that the Program supports the Livable Delaware initiative aimed at targeting State Strategies and Spending according to growth management plans. The Program supports the goals of Livable Delaware by reducing commuting time; reducing traffic congestion; and supporting State compliance efforts with the Clean Air Act of 1990.

Mr. Guajardo explained that the Program has been initiated in each county in the State. To date, the following employers are participating in the program: Latin American Community Center (Wilmington), West Side Health Center (Wilmington), PATS, Inc., Perdue Farms, City of Wilmington, City of Newark, City of Dover, Town of Milford, and Town of Georgetown. Other employers who are in the process of joining are: Nanticoke Hospital, Beebe Hospital, Sea Watch, (Milford) Perdue Plant, and Mountaire. Mr. Guajardo reported that one employee of Perdue has closed on their home and thirty employees are undergoing housing counseling.

Cathy Gregory stated that one of the major benefits of the program is the opportunity to draw new businesses to the area.

Mr. Stickels explained that there are two options that the County Council could consider: to be a participant and provide an additional \$1,000 along with the State, the local jurisdiction and the employer and/or to participate as an employer.

Councilmembers expressed concerns about the program:

- Objection to targeting specific communities and the limitations of the Livable Delaware targeted area (5-mile geographical area).
- The reduction of traffic will be minimal.
- Large companies are capable of sponsoring this type of program on

their own.

- All County employees should be eligible.
- The County should cover only the unincorporated areas.

M 290 04
Authorize
Participa-
tion
Motion Died A Motion was made by Mr. Cole that the Sussex County Council authorizes the County's participation in the Live Near Your Work Program in an amount of \$1,000 per Sussex County resident.
The Motion died for the lack of a second.

Proposed
Motions/
Live Near
Your Work
Program Mr. Stickels presented the following Proposed Motions for the County Council's consideration. "The County Council authorizes the County's participation in the Live Near Your Work Program in the amount of \$1,000 for homes purchased in the Livable Delaware designated areas." or "The County Council authorizes the County's participation in the Live Near Your Work Program in the amount of \$1,000 for homes purchased in the unincorporated areas."

Action
Deferred It was the consensus of Council to defer action.

Wastewater
Agreements Mr. Stickels discussed wastewater facilities to be constructed in the Fenwick Island Sanitary Sewer District and the West Rehoboth Sanitary Sewer District.

M 291 04
Carl M.
Freeman
Com-
munities/
Agreements A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 341, that the Sussex 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 I, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Abstention.

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

M 292 04
Great
South
Beach
Improve-
ment
Company/
Agreements A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 355, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Great South Beach Improvement Company for wastewater facilities to be constructed in Rehoboth Beach Yacht & Country Club, Phases 7, 8 and 9, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. Delaware Department of Transportation Public Workshop

The Delaware Department of Transportation is holding a second Public Workshop to present facts and to solicit public comments regarding the widening of SR 1 southbound from SR 24 to Five Points. The meeting will be held on Monday, May 17, 2004, at The Plantations Community Clubhouse, 1600 Pennsylvania Avenue, Lewes, Delaware.

This project involves widening southbound SR 1 to include a third travel lane and shoulder from north of Five Points to north of SR 24. This section of southbound SR 1 currently has a constrained capacity and the addition of a third travel lane and a widened shoulder could assist multi-modal usage. It is projected that this increased capacity will provide flexibility in coordinating the traffic signals to improve traffic flow on SR 1. The project also adds a sidewalk and "green area" that is consistent with the Charles B. Mills Boulevard concept where feasible. The project will require right of way acquisition and utility relocation.

The general public is invited to attend any time between 4:00 and 7:00 p.m.

2. Beneficial Acceptance

The Engineering Department gave Beneficial Acceptance on April 27, 2004, to Sea Esta II Village located in the Long Neck Sanitary Sewer District. The project consisted of allowing for the connection of a 32-room motel. A fact sheet on the project is included with this report.

3. 9-1-1 Awareness 2004

The Sussex County Emergency Operations Center will be hosting their annual 9-1-1 Awareness Day on Thursday, May 13, 2004, from 9:00 a.m. to 3:00 p.m. This project has grown over the past five years and last year we had approximately 1,500 students attend the event. Students in grades three through five participate in the program. This year the Emergency Operations Center is targeting

fifth grade students due to the large number of schools and students that want to participate in this all-day learning experience.

Donations from Grotto's Pizza, McDonald's of Georgetown, and Edy's Ice Cream provide the students with lunch to add to the enjoyment of the festivities. Public notice of the event is included with this report.

**Adminis-
trator's
Report
(continued)**

4. Council Schedule

A reminder that the Council meeting on May 11, 2004, will start at 6:30 p.m. in the Council Chambers in the County Administrative Office Building on The Circle in Georgetown.

5. Student Government Day

The Sussex County Council will host Student Government Day on Thursday, May 6, 2004, starting at 9:30 a.m. in the Council Chambers. Approximately 55 students from public schools in Sussex County who are in their junior year will participate. There will be a selection of County Council and a mock County Council session where the students will deal with issues that have been presented to Council over the year. The media is welcome to attend this activity.

**Bid
Results/
Digital
Color
Copier**

Mr. Shade, Purchasing Agent, reported on the bid results received for a Digital Color Copier:

Canon Business Solution

\$21,668.00

Xerox

(Their bid did not meet the specs provided.)

Mr. Shade noted that this equipment is not offered on State Contract.

**M 293 04
Authorizæ
Bid
Award for
Digital
Color
Copier**

A Motion was made by Mr. Jones, seconded by Mr. Philips, that the Sussex County Council accepts the bid of Canon Business Solutions in the amount of \$21,668.00 for one (1) Digital Color Copier as specified in the bid package.

Motion Adopted: 5 Yea.

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

**Updating
Emergency
Operations
Plan**

Mr. Thomas, Director of Emergency Operations, requested approval to modify, update and enhance the Sussex County Emergency Operations Plan (SCEOP). He announced that the Delaware Emergency Management Agency (DEMA) was awarded a grant through the Federal Emergency Management Agency (FEMA) to update and enhance State and Local EOPs

for all hazards with emphasis on Weapons of Mass Destruction terrorism preparedness. Through this grant process, New Castle County, Kent County and the City of Wilmington have updated their EOPs. The State of Delaware is updating their EOP and Sussex County now has the opportunity to update its EOP. Funding for the project is 100 percent refundable from FEMA through the State of Delaware once the EOP is approved by FEMA.

**M 294 04
Authorize
Emergency
Operations
Plan
Update**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council authorizes the Emergency Operations Center the opportunity to update and enhance its Emergency Operations Plan using the FEMA grant awarded to the State of Delaware with the understanding that all funding is 100 percent reimbursable from FEMA.

Motion Adopted: 5 Yea.

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

**M 295 04
Defer
Action
on
Change
of Zone
No. 1527**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Change of Zone No. 1527 filed on behalf of Bay Forest, LLC.

Motion Adopted: 5 Yea.

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

**Draft
Ordinance/
B-1 and
C-1
Commercial
Zoning
Districts**

The County Council discussed a draft ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO RESIDENTIAL USES IN THE B-1 AND G-1 COMMERCIAL ZONING DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO REQUIRE A PUBLIC HEARING FOR THE EXPANSION OF LARGE SCALE USES, AND MAKE OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT”.

Mr. Kautz, Land Use Planner, stated that the draft ordinance limits residential uses in new B-1 and G-1 Commercial Zoning Districts to four dwelling units per acre, provides for a public hearing when an existing non-residential large-scale use expands by more than 25 percent of total floor area and makes other technical changes to Articles X and XI.

Councilmembers discussed whether or not a grandfathering clause should be included in the draft ordinance. Mr. Dukes stated that he supports a grandfathering clause.

Councilmembers directed Mr. Griffin to provide a legal opinion on grandfathering and vested rights.

Grant Requests **Mr. Stickels presented grant requests for the County Council's consideration.**

M 296 04 Grant
M 296 04 Councilmanic Grant
(continued) **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give the Broadkill Beach Preservation Association funding from Mr. Rogers' Councilmanic Grant Account in an amount not to exceed \$500.00 for portable toilets at Broadkill Beach.**

Motion Adopted: 5 Yea.

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

M 297 04 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$100.00 from Mr. Jones' Councilmanic Grant Account to the Delaware Quarter Horse Association to sponsor the futurities in the July show.**

Motion Adopted: 5 Yea.

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

M 298 04 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$200.00, \$100.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Grant Accounts, to the Delaware Music School.**

Motion Adopted: 5 Yea.

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

M 299 04 Youth Activity Grant **A Motion was made by Mr. Rogers, seconded by Jones, to give \$250.00 from Mr. Rogers' Youth Activity Grant Account to Boy Scout Troop One of Lewes for the scholarship program.**

Motion Adopted: 5 Yea.

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

M 300 04 Recess **At 12:20 p.m., a Motion was made by Mr. Jones, seconded by Mr. Rogers, to recess until 1:00 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Dukes called Council back into session at 1:07 p.m.**

Public Hearing (C/U No. 1532) **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 ELECTRICAL CONTRACTORS OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 1532) filed on behalf of Triangle Electrical Service Co.**

Public Hearing (C/U No. 1532) (continued) **The Planning and Zoning Commission held a Public Hearing on this application on April 15, 2004 at which time they recommended approval with six conditions.**

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary, including the recommendation and the findings, were admitted as part of the County Council’s record.

The County Council found that David George was present on behalf of the application. Mr. George stated that the family business has been in existence for six years; that they have expanded their business to Sussex County; that they purchased property in March and since previously, there was a business on the site, they thought they could proceed and open a business.

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

M 301 04 Adopt Ordinance No. 1687 (C/U No. 1532) **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1687 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTORS OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 1532) filed on behalf of Triangle Electrical Service Co., with the following conditions:**

- 1. All trucks and trailers associated with the electrical contracting business shall only be parked in the designated parking area as shown on the site plan. There shall be no more than two vehicles or trailers parked in this area at any one time.**
- 2. There shall only be one unlighted sign on the premises that shall not exceed 32 square feet per side or facing.**
- 3. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or towards Route 9.**

4. No outside storage, except for trucks or trailers, shall be allowed on the premises.
5. The hours of operation for the business on this site shall be limited to 7:30 a.m. to 6:00 p.m. Monday through Friday and 7:30 a.m. until 12:30 p.m. on Saturdays.
6. The site plan shall be subject to the approval of the Planning and Zoning Commission.

M 301 04
(continued)

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/U
No. 1533)**

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 (2 UNITS) 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. 1533) filed on behalf of Kyung Cho-Miller.

The Planning and Zoning Commission held a Public Hearing on this application on April 15, 2004 at which time they recommended approval with five conditions.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary, including the recommendation and the findings, were admitted as part of the County Council’s record.

Mr. Lank noted that the applicant would be required to obtain an area variance from the Board of Adjustment, since each unit requires 3,630 square feet of lot area (a total of 7,260 square feet), which exceeds the size of the parcel containing only 6,000 square feet.

The County Council found that Jim Galanaro was present on behalf of the applicant. Mr. Galanaro stated that the current structure will be demolished; that a duplex will be constructed on the site; that the duplex will be elevated on pilings; that parking will be below and beside the units; that six parking spaces will be provided; that the new construction will upgrade the site and make it more aesthetically appealing; and that the Homeowners Association supports the application.

Public comments were heard.

Mr. Michael Emmett of the Tower Shores Board of Directors stated that, in accordance with the guidelines of the Tower Shores Beach Association that

was passed by moratorium two weeks ago, no construction is permitted between Memorial Day and Labor Day.

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

M 302 04
Adopt
Ordinance
M 302 04
Adopt
Ordinance
No. 1688
(C/U
No. 1533)
(continued)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1688 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) 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. 1533) filed on behalf of Kyung Cho-Miller, with the following conditions:

1. The applicant must obtain an area variance from the Board of Adjustment.
2. Only two (2) units shall be constructed upon the property.
3. The project shall be served as part of a Sussex County Sanitary Sewer District.
4. Construction and site work shall comply with the Tower Shores Beach Association’s rules and guidelines.
5. The site plan shall be subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1550)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 39,600 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1550) filed on behalf of Michael R. Emmett, Sr.

The Planning and Zoning Commission held a Public Hearing on this application on April 15, 2004 at which time they recommended approval with five conditions.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary, including the recommendation and the findings, were admitted as part of the County Council’s record.

**Public
Hearing
(C/U
No. 1550)
(continued)**

The County Council found that Michael Emmett was present with Fred Townsend, Attorney. They stated that Mr. Emmett, along with five other homeowners within Nomad Village Condominiums propose to demolish and replace the existing six A-frame units with 3-story modern units; that the foundations will remain the same; that Mr. Emmett will be building the improvements; that the majority of Tower Shores Subdivision is multi-family dwellings; that they do not propose to increase the density, only replace the units; that the units will be single-family units; that the Homeowners Association supports the application; and that a minimum of three parking spaces per unit will be provided.

It was noted that a minimum of 36 parking spaces already exist, although they are not designated to any particular unit.

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

**M 303 04
Adopt
Ordinance
No. 1689
(C/U
No. 1550)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1689 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 39,600 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1550) filed on behalf of Michael R. Emmett, Sr., with the following conditions:

1. The six (6) existing A-frame dwellings shall be replaced with only six (6) dwellings.
2. The project shall be served as part of a Sussex County Sanitary Sewer District.
3. Construction and site work shall comply with the Tower Shores Beach Association’s rules and guidelines.
4. The site plan shall be subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1532)**

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 22,497 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1532) filed on behalf of E. F. and Martha Quillen.

The Planning and Zoning Commission held a Public Hearing on this application on April 15, 2004 at which time they recommended approval.

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

Public
Hearing
(C/Z
No. 1532)
(continued)

The County Council found that E. F. Quillen and Martha Quillen were present with David Weidman, Attorney. They stated in their presentation that they are seeking the rezoning so that Mrs. Quillen can open and operate a gift or antique shop on the site in the future; that the site is currently a vacant lot; that they propose to build a 2,800 square foot building with adequate parking; that the site is surrounded by commercial properties and planned subdivisions; that DelDOT did not require a traffic impact study; and that the change of zone will not adversely affect the area.

Mr. Cole commented that a conditional use application should have been sought. He noted that since the application is for a change of zone, conditions cannot be placed on the application and he questioned whether the applicant would consider placing a deed restriction limiting the use of the property.

Mr. Weidman replied that the applicant wants some flexibility in regards to the use of the property.

Public comments were heard. Brenda Bove, an adjacent property owner, stated that the site is completely surrounded by agricultural and residential uses; that the site is located in an Environmentally Sensitive Developing Area; that traffic is a concern; that there are single family homes along Route 17; that septic and stormwater run-off is a concern; that the applicant's septic is only 50 feet from the ditch where her horses drink; that neighbors oppose some of the permitted uses listed for B-1 zoning; that there may be impacts on the tax ditch system in the area; and that the use will destroy the rural agricultural character of the area.

The Public Hearing was closed.

M 304 04
Defer
Action on
C/Z
No. 1532

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Change of Zone No. 1532, an application of E. F. Quillen and Martha Quillen.

Motion Adopted: 4 Yea, 1 Nay.

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

Public

A Public Hearing was held on the Proposed Ordinance entitled "AN

**Hearing
(C/Z
No. 1537)** **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1537) filed on behalf of Charlotte L. Wheatley.**

**Public
Hearing
(C/Z
No. 1537)** **The Planning and Zoning Commission held a Public Hearing on this application on April 15, 2004 at which time they recommended that the application be denied.**

(continued) **Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary, including the recommendation and the findings, were admitted as part of the County Council’s record.**

The County Council found that Charlotte Wheatley was present with Thomas Crowley, Realtor. They stated in their presentation that Mr. and Mrs. Wheatley propose to operate a publishing business in the existing house; that the proposed use will not have an adverse impact on traffic; that the business will mainly be transacted over the internet and mail order; and that the existing 3-car garage will be used for storage.

Mr. Cole expressed concern about the number of uses that are permitted under C-1 zoning. Mr. Cole questioned the applicant as to whether she would be willing to (1) deed restrict the property, limiting its use or (2) apply for B-1 zoning.

Mrs. Wheatley stated that she does not want to deed restrict the property and that she wants C-1 zoning and not B-1 zoning.

Public comments were heard.

Mary Robin Schriber, Attorney, was present on behalf of the Murray’s Haven Homeowner’s Association. Ms. Schriber submitted a petition signed by 44 residents in opposition to the application. She stated that the Association’s primary concern is traffic and that properties on each side of the site are also for sale and a commercial block could be formed.

The Public Hearing was closed.

**M 305 04
Adopt
Proposed
Ordinance
(C/Z
No. 1537)** **A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27,000 SQUARE FEET, MORE OR LESS” (Change of**

Zone No. 1537) filed on behalf of Charlotte L. Wheatley.

Motion Denied: 5 Nay.

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

**M 306 04 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at
Adjourn 2:30 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

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