



*Sussex County Council
Agendas & Minutes*

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, August 31, 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
George B. Cole	Member
Vance C. Phillips	Member
Lynn J. Rogers	Member
Robert L. Stickels	County Administrator
David B. Baker	Finance Director
Alix Robinson	Assistant County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Dukes.

**M 524 04
Approve
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Agenda of August 31, 2004.

Motion Adopted: 5 Yea.

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

**M 525 04
Approve
Minutes**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the minutes of August 17, 2004.

Motion Adopted: 5 Yea.

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

**M 526 04
Approve
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the minutes of August 24, 2004.

Motion Adopted: **5 Yea.**

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

**Garage/
Studio
Apartments
Update
Garage/
Studio
Apartments
Update
(continued)** **Mr. Stickels and Mr. Kautz, County Planner, discussed garage/studio apartments and asked the Council for direction on the drafting of an ordinance. Mr. Stickels stated that the Council could consider amending the "Accessory Use" section of the Zoning Code to allow the apartments, by right, but with ordinance-defined limits. He noted that if garage and studio apartments were allowed as a permitted use in the AR-1 District, then they would automatically be permitted in GR and C-1 Districts and that adding them as a permitted use in the MR District would automatically permit them in the HR-1, HR-2 and M-Marine Districts.**

Mr. Lank, Director of Planning and Zoning, stated that under the County's current ordinance, a garage/studio apartment would require a conditional use for multi-family.

Councilmembers expressed concern about permitting the use without a public hearing.

Mr. Cole stated that he suggested an ordinance amendment for residential areas only, not in commercial districts since it would give property owners the opportunity to provide affordable housing and the ability to derive additional income.

Mr. Stickels suggested that restrictions could be placed on garage/studio apartments as a permitted use, i.e. primary residences only, meeting all environmental requirements, meeting building code requirements, meeting sewer requirements, meeting parking requirements, limiting the total floor area, approval from DelDOT, etc. Mr. Lank suggested that another alternative would be for a special use exception approved by the Board of Adjustment.

It was the consensus of the Council that an ordinance be drafted which would permit garage/studio apartments as a special use exception in AR and MR

Districts, with the following requirements being met: (1) primary residence, (2) additional parking, (3) building permit, (3) total floor area of 800 square feet or less (3) approval of DelDOT, and (4) approval of the Board of Adjustment.

Proposed Building Acquisition/ Lot 24, Sussex County Industrial Airpark Mr. Stickels presented a proposal for the County to purchase a building at the Industrial Park. Currently, the County is leasing land (Lot No. 24) at the Industrial Park to Hol-Krist, L.L.C. The land houses a building of approximately 30,000 square feet, which is owned by Hol-Krist, L.L.C. Mr. Stickels stated that the County has an opportunity to purchase the facility and that he believes the building has a potential of generating income for the County. He reported that the purchase price is \$1,500,000; \$750,000 would be paid at settlement, with the balance to be paid within one year of the date of settlement.

M 527 04 Purchase Hol-Krist Facility A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council, having met in public session, authorizes the Sussex County Council President to execute the necessary documents to allow the County government to purchase the facility currently owned by Hol-Krist, L.L.C., located on Lot 24 at the Sussex County Industrial Airpark for \$1,500,000 and Be It Further Moved, that \$750,000 will be paid at settlement, with the balance to be paid within one year of the date of settlement.

M 527 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

DelDOT Proposed Capital Transportation Improvement Program Mr. Stickels updated the Council on what he is recommending to be included in DelDOT's Capital Transportation Improvement Program for FY 2006 – 2011 for Sussex County, as follows:

- Sussex County Aviation
- Sussex County Rail Transportation
- Real-Time Signage

- **Indian River Inlet Bridge**
- **North-South Limited Access Highway**
- **East-West Improvements:**
 - **SR 36 from US 113 west of Milford to SR 404 east of Greenwood**
 - **SR 16 from SR 36 east of Greenwood to the termination of the road at the Delaware Bay**
 - **SR 404 from the Maryland border to Route 1**
 - **RT 40 between US 13 and US 113**
 - **SR 24 from US 113 east to the Route 1 intersection north of Rehoboth**
 - **SR 26 from the Assawoman Canal west to US 113**
 - **SR 54 from S 58C to US 113**
- **Beach Area Improvements**
- **SR 30 and SR 5 from SR 24 north to Route 1**
- **Georgetown – Park Avenue SR 318 east of Georgetown and SR 321 south of SR 9 have been designated as a Truck Relief Route for the Town of Georgetown**
- **Ellendale**
- **US 13 Corridor Capacity Improvements**
- **County Road Concerns**

Mr. Cole expressed concern that the list should be prioritized with the following being the top three: (1) East-West Improvements, (2) US 13 Corridor Capacity Improvements, and (3) County Road Concerns.

**DelDOT
Proposed
Capital
Transporta-
tion
Improve-
ment
Program
(update)**

Mr. Stickels reported that during the last year of the Carper Administration, Sussex County was scheduled to get approximately \$35 - \$40 Million in road improvements over the next five years. Under the Minner Administration, Sussex County is scheduled to receive \$370 Million.

Mr. Stickels stated that DelDOT has started a new process, called the Pipeline Process. This process provides an avenue for anyone to inform DelDOT of transportation problems that need correcting. Ideas can be submitted by

individuals, legislators, civic associations, local governments, metropolitan planning organizations, and DelDOT staff. The process allows for an email to be sent to the Pipeline Manager at www.deldot.net/static/projects/project_nomination.html. A Pipeline Project Nomination Form can also be filled out and mailed to DelDOT.

It was the consensus of the Council to approve Mr. Stickels' recommendations for DelDOT's Capital Transportation Improvement Program for FY 2006 – 2011, with the list prioritized and with the first three items being (1) East-West Improvements, (2) US 13 Corridor Capacity Improvements, and (3) County Road Concerns.

**Airport
Corporate
Hangar
Taxilane
Project**

Mr. Stickels reported on the bid results for Sussex County Project No. 04-11, Sussex County Airport Corporate Hangar Taxilane, which includes the construction of a service road and hangar aprons and the relocation of utilities. The low bid came in at \$777,980.00. Mr. Stickels advised that County staff met with the low bidder to see if anything could be done to save costs. He noted that if the bid were awarded in the amount of \$777,980.00, the Motion would include a change order reducing the contract by \$90,700.00. Mr. Stickels advised that the total project, including design and other requirements, would then total \$893,710.00. He noted that grants are available and that the County plans to recover costs by entering into leases for five sites. The first five years, the rent would be \$750.00 per month per hangar site; the first two years, the rent would be waived; after the first five years, the rent would start increasing in accordance with the Consumer Price Index. The term of the leases would be for thirty years, with two ten-year options. The tenant would be responsible for utility costs. Mr. Stickels noted that the leases would allow the County to recover \$45,000 annually. He further noted that there are potential tenants for the sites.

**M 528 04
Award
Bid/
Airport
Corporate
Hangar
Taxilane**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council awards Sussex County Project No. 04-11, Sussex County Airport Corporate Hangar Taxilane, to the lowest responsive bidder, JJID, Inc. of Bear, Delaware, at the bid amount of \$777,980.00; and Be It Further Moved that Credit Change Order No. 1 be approved at the amount of \$90,700.00 decreasing the original contract sum from \$777,980.00 to

M 528 04 **\$687,280.00; all of the above being contingent upon the receipt of approval from the FAA and DelDOT contingent upon the approval of the County's Finance and Legal Departments.**

Motion Adopted: 5 Yea.

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

Administrator's Report

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

1. Beneficial Acceptance

The Sussex County Engineering Department granted Beneficial Acceptance on August 25, 2004, to the Marsh Property/a.k.a. Rehoboth Grand, Agreement No. 310. The developer is L & S Properties, L.L.C., and the project is located on Delaware Route 1A at the Lewes and Rehoboth Canal in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 22 dwelling units. Included with this report is a fact sheet on the project.

2. Holiday Schedule

Sussex County government offices will be closed on Monday, September 6, 2004, to allow employees to observe the Labor Day holiday. Offices will reopen at 8:30 a.m. on Tuesday, September 7, 2004.

There will not be a County Council meeting on Tuesday, September 7, 2004. The next regularly scheduled Council meeting will be at 7:15 p.m. on Tuesday, September 14, 2004. (The time has been changed from 6:30 p.m. to 7:15 p.m. due to the fact that the Vietnam Veterans Memorial "The Moving Wall" is arriving in Seaford on September 14th and a ceremony has been scheduled. Several Councilmembers will be attending that function prior to the Council meeting.)

Request

Mr. Stickels presented a grant request for the Council's consideration.

M 529 04

**Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$150.00 from Mr. Jones' Councilmanic Account to the Slam Softball Team for tournament expenses.

Motion Adopted: 5 Yea.

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

**Proposed
Ordinance**

Mr. Jones 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 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. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Phillips 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 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 Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Jones 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 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 Proposed Ordinance will be advertised for Public Hearing.

Additional

Business	Mr. Dan Kramer told Council that he saw a notice in the newspaper reporting that a bank is holding a certified check that has not been claimed by Sussex County. Mr. Kramer also commented on the rights of commercial landowners to build houses.
Recess	At 11:20 a.m., a Motion was made by Mr. Jones, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.
Reconvene	Mr. Dukes called the Council back into session at 1:30 p.m.
Public Hearing (C/Z No. 1548)	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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.1714 ACRES OF A 13.0414 ACRE TRACT" (Change of Zone No. 1548) filed on behalf of Gary L. Thomas and Shirley M. Thomas.
Public Hearing (C/Z No. 1548) (continued)	The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2004, at which time they deferred action. On August 26, 2004, the Commission recommended that the application be denied.
	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.
	(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2004, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)
	Mr. Lank reported that two letters were received from area residents in support of the application. one from Scott Smith and one from Robert Williamson.
	Mr. Lank reported that a petition with 10 signatures was received in opposition to the application.

Mr. Lank reported that, since the Public Hearing before the Planning and Zoning Commission, two additional letters were received: (1) one from the Sussex County Engineering Department which stated that the applicant could contact the City of Seaford concerning the availability of water and sanitary sewer service and (2) one from the Sussex Conservation District.

Mr. Lank reported that, after the close of the public hearing before the Planning and Zoning Commission, the applicant submitted a letter describing his intents and the history of the site, and photos of other businesses in the area. (The information was admitted as part of the County Council's record.)

The County Council found that John McFarland was present on behalf of the application. Mr. McFarland stated that he is the owner of American Water Well Systems, Inc.; that he is part owner of Delmarva Builders, Inc.; that he plans to develop the site with an office and storage building; that he proposes to build a 60 foot by 120 foot steel building; that the building will be set back at least 350 feet from Camp Road; that there will be a 150 foot buffer around the site fronting on Camp Road; that they are currently renting office space and a shop for their business; that their rent has tripled over the last seven years; that American Water Well Systems has seven employees and Delmarva Builders, Inc. has six employees; that the two businesses share a secretary; that other than the secretary, no employees are at the facility on a day to day basis; that they initially purchased the front portion of the property from Gary and Shirley Thomas with the first option of purchasing the second portion of the property; that no access is proposed from U.S. Route 13; that DelDOT may allow a combined access with the Layton property; that the site already has an existing loading platform and a 40 foot by 60 foot existing storage building; that the business does not have any walk-in trade; that there will be no construction or manufacturing on the site; that the site has historically been used for a nursery business; that equipment will be stored inside the building; that the well drilling equipment moves from job site to job site and will rarely be on this site; that they plan to fence the site and plant trees around the site; and that an agricultural truck transfer facility and plumbing business adjoin the site.

**Public
Hearing
(C/Z
No. 1548)
(continued)**

Mr. Cole expressed concern that commercial zoning allows many uses and although the applicant has stated his intentions, if the property should be sold

in the future, the new owners could establish a business that is not desirable.

Public comments were heard.

Joe Johnson spoke in support of the application. He stated that other commercial businesses are located in the area and that Mr. McFarland runs a small business that is important to Sussex County.

Robert Williamson, an adjacent neighbor of the property and the owner of Bobby's Plumbing, spoke in support of the application. He stated that a commercial precedent has already been established in the area; that from his yard, he can look at close to fifty different businesses; and that he is not concerned about future C-1 issues if the property were ever sold.

Van Milligan spoke on behalf of Bethel Worship Center in support of the application. He stated that the church is located next to the property owned by Mr. McFarland; that a 50 foot right of way goes in front of the church parking and lot and to Mr. McFarland's land; that it is their understanding that Mr. McFarland will create his own driveway/entrance from Camp Road; and that they would prefer that the business not use their entranceway on U.S. 13.

Sylvia Short spoke in opposition and expressed concerns about the nature of the area, which is primarily agricultural residential; that her and her husband recently purchased land on Camp Road knowing that they were buying into an agricultural-residential area; that a C-1 zoning is out of character for Camp Road; that Camp Road is not adequate for commercial traffic; that the neighboring agricultural truck transfer facility is a seasonal temporary agricultural use; that the plumbing business is operated by a plumber and his wife with no employees; that the rezoning request is not an extension to commercial zonings along Camp Road; that there are several residential developments along Camp Road; and that she doesn't understand why Mr. McFarland doesn't place his business on the C-1 zoned property that he purchased.

The Public Hearing was closed.

**Defer
Action on
C/Z
No. 1548**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Change of Zone No. 1548, an application filed on behalf of Gary L. Thomas and Shirley M. Thomas, and to leave the record open for a period of two weeks, until the close of business on September 14, 2004, for the applicant to consider other methods of land use (deed restrictions, B-1 zoning, conditional use, etc.).

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. 1549)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL 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 0.78 ACRE, MORE OR LESS" (Change of Zone No. 1549) filed on behalf of DMR Properties, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2004, at which time they deferred action. On August 26, 2004, the Commission discussed this application under Old Business and 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.

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2004, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

The County Council found that Joseph Reed, a member of DMR, L.L.C., was present on behalf of the application. He stated that the site currently contains three lots; that he proposes to develop the site for retail uses or professional offices; that he is not sure at this point in time who the tenants will be; that the

**Public
Hearing
(C/Z
No. 1549)
(continued)**

proposed building will contain 5,472 square feet; that the County has advised that wastewater capacity is available and the County will provide sewer service; that the site is located in the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update; that that Tidewater Utilities, Inc. will provide central water; that a general mixture of commercial and service activities now exist on Route 24; that there will not be any adverse impacts on neighboring properties; that he plans to meet or exceed stormwater requirements; that C-1 zoning is appropriate in a development district along a major roadway; that he plans on installing an 8 foot solid vinyl fence around the perimeter of the site that borders residential properties; that the lots are a part of a subdivision where other commercial uses are already taking place; and that there are no deed restrictions on the property against commercial uses.

Mr. Cole questioned why the applicant wants the flexibility of C-1 zoning when B-1 zoning would be appropriate for what is proposed. Mr. Reed stated that they are willing to submit deed restrictions that would limit the uses to those permitted in C-1 zoning.

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

**M 531 04
Defer
Action
(C/Z
No. 1549)**

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. 1546)**

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 HR-1/RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED,

**SUSSEX COUNTY, CONTAINING 26.76 ACRES, MORE OR LESS”
(Change of Zone No. 1546) filed on behalf of Three Seasons, L.L.C.**

The Planning and Zoning Commission held a Public Hearing on this application on August 12, 2004, at which time they deferred action pending receipt of comments from the Technical Advisory Committee and the Preliminary Land Use Service. On August 26, 2004, the Commission received copies of the Technical Advisory Committee report of August 18, 2004, and a copy of the Office of State Planning Coordination report on the Preliminary Land Use Service (PLUS) meeting of August 4, 2004. Action was deferred again to give the Commission time to review the documents.

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.

Public
Hearing
(C/Z
No. 1546)
(continued)

Mr. Lank noted that seven letters of opposition were received and a petition in opposition to the application was received which contained 409 signatures. Mr. Lank distributed an exhibit booklet and a revised site plan reducing the number of units to 118, both of which were submitted by the Applicant. Mr. Lank also distributed a copy of the Technical Advisory Committee’s report and a copy of the letter received from the Office of State Planning Coordination.

Mr. Lank distributed additional correspondence that has been received since the Public Hearing before the Planning and Zoning Commission, one letter from the Sussex Conservation District and one letter from Lance Davis (which included an additional 18 signatures in opposition to the application).

(See the minutes of the Planning and Zoning Commission dated August 12 and August 26, 2004, for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

The County Council found that Bill Lingo, Derek Lingo, Eric Sugrue, Don Lockwood, Darin Lockwood, all partners in Three Seasons, L.L.C., and James Fuqua, Attorney, were present on behalf of the application.

Mr. Fuqua stated that the application was originally filed for an HR-RPC for

Public
Hearing
(C/Z
No. 1546)
(continued)

158 residential units (8 single family, 30 townhouses, and 120 multi-family “stacked” units); that the site is currently operated as the Three Seasons Campground and contains approximately 304 campsites for recreational vehicles and trailers; that since the date of the original application, many meetings have been held with different agencies relating to the application; that as a result of some of the comments and recommendations received and the petition that was submitted by the opposition, decisions were made to revise the application to a lesser use; that the current proposal reduces the number of units requested from 158 to 118, a reduction of 40 units; that they have also removed the stacked units from the application; that the new proposal of 118 units includes 8 single family units, 30 townhouse units, and 80 duplex units; that the site is located in a development area under the State Strategies Map and in the Environmentally Sensitive Development District under the 2003 Sussex County Land Use Plan; that the site will be served by the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the site is already served by County sewer; that the revised plan will comply with the County Engineering Department’s recommended EDU allocation; that a letter from Tidewater Utilities was received, dated August 20, 2004 which provided information supporting their ability to provide adequate water pressure to the area (this letter was submitted into the record); that in the letter from the Office of State Planning Coordination, comments from DelDOT reflect that they did not recommend a Traffic Impact Study for the proposed rezoning, that the proposed use will not meet DelDOT’s average daily traffic warrants for a Traffic Impact Study and would not result in a significant increase in traffic over what the existing campground generates (this letter was addressing the 158 units); that a letter from The Traffic Group, dated August 16, 2004 stated that “the current plan for the Three Seasons site will generate less traffic than what is presently being generated by the Three Seasons RV Camping Resort, and therefore, would not negatively impact the adjacent roadways” (Mr. Fuqua distributed a copy of the letter from The Traffic Group); that the property is located in the Cape Henlopen School District; and that the school district stated that new housing development has had little to no impact on the district.

Darin Lockwood, President of Meridian Architects & Engineers, distributed pictures showing the housing style of the duplexes for the proposed development; that the existing site contains approximately 50% of impervious area; that there is no stormwater management on the campground site; that

the proposed application will provide stormwater management plans; that the site is not in a well-head protection recharge area; that plans will meet all agency regulations; that three parking spots will be provided for each unit; that there would be a 50 foot buffer from State wetlands and a 20 foot buffer from Federal wetlands; that

In response to questions asked by Mr. Cole relating to traffic, Mr. Lockwood stated that “I only counted the traffic, The Traffic Group analyzed it”.

Mr. Fuqua submitted a list of proposed conditions.

Public comments were heard in support of the application.

Claudia McCloskey stated that the proposed development will enhance the value of homes in the area; that it would have a lesser traffic impact during the peak season; and that it would appeal to people who want to be year-round residents.

Spencer Brittingham stated that he and his family are neighbors of the campground and that his family has to deal with trespassing, fumes and noise from trash trucks, motorcycles, campers and motor homes, as well as other things that go along with living next to a campground. Mr. Brittingham stated that he supports a change from a campground to a development.

Allen Carroll stated that he supports the proposed development; that campers are not homeowners and they don't always respect the community; and that the change would be a positive one for the entire area.

Public comments were heard in opposition to the application.

Blanche Davis stated that area residents prefer a development of single family homes; that the letter from the Office of State Planning Coordination refers to HR zoning several times and that the letter states that “the requested zoning HR-RPC is isolated from similar districts in that the nearest HR is more than one mile away and the proposed land use is out of character with the neighborhood and is not consistent with the Comprehensive Plan in that the Environmentally Sensitive Development District anticipates a low to moderate

(C/Z
No. 1546)
(continued)

use of land with the MR zoning"; that traffic on the road has increased; that traffic on Country Club Road is frequently backed up; and that the campground is not open year round and that the development would result in additional traffic.

Elizabeth Sutter stated that 38 roads empty onto Country Club Road; that the Country Club, the outlets, and Jungle Jim, which all empty onto Country Club Road, generate a lot of traffic; and that she supports single family homes. Ms. Sutter submitted the list for the record.

Peter Popper stated that it would be a big mistake to build (three-story) multi-family dwellings so close (50 feet) to the water; that the developer should follow DNREC's recommendation for the area; that the proposed development will change the entire character of the body of water and perhaps affect the ecology of the area; that the current traffic situation is a disaster; that it is already so crowded that emergency vehicles have difficulty getting into the area; that the County Council should get accurate numbers on traffic – what the count is now and what the count would be with the new development; and that the campground has a minor number of cars compared to what would come with the new development.

Rudy Blancke stated that he is not opposed to the development but he is opposed to the potential number of vehicles on Shuttle Road and Country Club Road and is opposed to the number of units proposed.

Jim Truitt stated that he owns Silver View Farm, a manufactured home community with 146 units; that he is not against development; that he proposes 80 single family homes for this project; that 80 homes would be in character with the area and comparable to the density of other developments in the area; that there are a significant number of lots in the other developments available to be built on, approximately 350-400 lots that have already been approved; that the proposed development would add at least two cars per lot (700-800 cars) to the roads in the area; that traffic is already a problem with the Holiday Inn, the outlets, the park and ride, two country clubs, the campground, and other developments emptying out on the road; that emergency vehicles cannot get through; that the campground is not open year-round; that the site is no place for a RPC; that traffic on Route One has gone up 16 percent from June

Public
Hearing
(C/Z
No. 1546)
(continued)

2003 to June 2004; that the number of trips reported by DART decreased in the year 2002 from 31,000 to 18,000, increased up to 22,000 in 2003, and as of August 31, 2004, is 5 percent above the 22,000 in 2003; that the people in townhouses/duplexes are not going to ride a DART bus; that he contacted DelDOT and questioned how they obtained traffic counts relating to the project; that Mr. Brockenbrough of DelDOT responded that they were obtained from the Institute of Transportation Engineers Trip Generation Report – that the report was from a compilation of campground figures from California, Washington, and Rhode Island; that he questioned information in DelDOT's report which referred to the 302 unit campground; that the information was submitted by the developer's engineer, which is Darin Lockwood, a principal of the project; that Mr. Brockenbrough did not know how Mr. Lockwood obtained his traffic counts; and that the traffic study is flawed.

Mr. Truitt referred to and started to read a Letter to the Editor which appeared in the Cape Gazette entitled "Rogers deals fairly with land-use issues", which was written by Darin Lockwood and states that "I am supporting Lynn Rogers for re-election to Sussex County Council this November. I am asking you to join me in providing financial support for his campaign...."

Assistant County Attorney Robinson stopped Mr. Truitt from reading the letter stating that she was unsure that it was relevant/appropriate to the application.

Mr. Truitt stated that based on the letter, he is "asking Mr. Lynn Rogers to recuse himself from the vote because Darin Lockwood runs his campaign soliciting money from land builders, I want him to recuse himself from voting on this project because it stinks".

Mr. Stickels asked Ms. Robinson to allow Mr. Truitt to introduce Darin Lockwood's Letter to the Editor and then the Legal Department could make a determination as to whether it should be made a part of the record or if it should be struck. Mr. Truitt submitted the letter for this purpose.

Ronald Lobman referred to the applicant's comments that Tidewater has given assurances that they can provide water services and that Tidewater has

informed them that in order to do so, they would increase their rates by 24 percent.

Joan Deaver questioned why public hearings on controversial applications are always scheduled last and she requested that this policy be changed; that the applicant revising the application at the last minute is unfair to people and that the revision is why the petition refers to different number than the application; that it would be a crime to destroy the property with high density housing; that Sussex County could afford to purchase and preserve this property; that she would prefer open space over a tax rebate; and that the proposal has no public value.

David Cowart stated that he would rather see the campground remain.

The Public Hearing was closed.

M 532 04

**Defer
Action on
C/Z
No. 1546**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Change of Zone No. 1546, an application filed on behalf of Three Seasons, L.L.C., and to allow additional comments, in writing for a period of one week, until the close of business on September 7, 2004.

Motion Adopted: 5 Yea.

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

Mr. Cole posed a question to Mr. Rogers regarding whether he is claiming that there he has no conflict with Change of Zone No. 1546. He also asked the rest of the Councilmen if they had accepted any contributions from any of the applicants.

Mr. Dukes stated that all campaign contributions would be included in the Councilmen's respective election reports.

Mr. Fuqua, speaking on behalf of anyone coming to Council with an

application, stated that politics should not be brought up during a public hearing on a zoning application and that it is wrong, incorrect, and it should not happen. He further stated that a complaint could be filed and it could be investigated, but it should not be brought up during the public hearing.

M 533 04

Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at 2:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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