



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 9, 2004

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, November 9, 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 |
| Lynn J. Rogers | Member |
| Vance Phillips | Member |
| Robert L. Stickels | County Administrator |
| David Baker | Finance Director |
| James D. Griffin | County Attorney |

M 634 04 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Agenda, as distributed.

Motion Adopted: 5 Yea.

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

M 635 04 Approve Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the minutes of October 26, 2004.

Motion Adopted: 5 Yea.

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

Corre- spondence

Mr. Griffin read the following correspondence:

**GEORGE H. BUNTING, JR., SENATOR OF THE STATE OF
DELAWARE, DOVER, DELAWARE.**

RE: Letter expressing thanks to the County for the location on The Circle

for the Vietnam Memorial honoring the twenty-six men from Sussex County who gave their all for their nation.

CHARLES WAGNER, PRESIDENT, MILTON DEVELOPMENT CORPORATION, MILTON, DELAWARE.

RE: Letter in appreciation of grant for the Milton Theatre Project.

**Corre-
spondence
(continued)**

DELAWARE SPORTSMEN AGAINST HUNGER, INC., DOVER, DELAWARE.

RE: Letter in appreciation of grant.

ARLENE LITTLETON, EXECUTIVE DIRECTOR, CHEER, SUSSEX COUNTY SENIOR SERVICES, INC., GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grants.

PHYLLIS WHITE.

RE: Letter in appreciation of the repairs made to her home.

**M 636 04
Adopt
Procla-
mation**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the Proclamation entitled “PROCLAIMING SATURDAY, NOVEMBER 13, 2004 AS A DAY TO HONOR E. JAMES MONIHAN”.

Motion Adopted: 5 Yea.

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

**Proposed
2005
Holiday
Schedule**

Mr. Stickels presented the proposed 2005 Holiday Schedule, the proposed dates that the County Council would not meet in 2005, and the proposed 2005 night meeting schedule. (It was noted that night meetings would begin at 6:30 p.m. with public hearings held at 7:45 p.m.)

**M 637 04
Adopt
2005
Holiday
Schedule,
No
Council
Meeting
Schedule,
and the
Night
Meeting
Schedule**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that the Sussex County Council, having met in public session, adopts the 2005 Holiday Schedule, the 2005 No Council Meeting Schedule and the 2005 Night Meeting Schedule, as follows:

| <u>2005 Holiday Schedule</u> | | |
|------------------------------|---------------------------|---------------------------|
| <u>Holiday</u> | <u>State Observance</u> | <u>County Observance</u> |
| New Year's Day | December 31, '04 (Friday) | December 31, '04 (Friday) |
| Martin Luther King Day | January 17 (Monday) | January 17 (Monday) |
| Presidents' Day | February 21 (Monday) | February 21 (Monday) |
| Good Friday | March 25 (Friday) | March 25 (Friday) |
| Memorial Day | May 30 (Monday) | May 30 (Monday) |
| Independence Day | July 4 (Monday) | July 4 (Monday) |
| Labor Day | September 5 (Monday) | September 5 (Monday) |
| Columbus Day | October 10 (Monday) | October 10 (Monday) |

| | | |
|------------------------|------------------------|------------------------|
| Veterans' Day | November 11 (Friday) | November 11 (Friday) |
| Thanksgiving Day | November 24 (Thursday) | November 24 (Thursday) |
| Day After Thanksgiving | November 26 (Friday) | November 26 (Friday) |
| Christmas Eve | | December 23 (Friday) |
| Christmas Day | December 24 (Friday) | December 24 (Friday) |

M 637 04
Adopt
2005
Holiday
Schedule,
No
Council
Meeting
Schedule,
and the
Night
Meeting
Schedule
(continued)

2005 – No Council Meetings

| | | |
|-------------------|---|----------------------|
| February 22, 2005 | - | Winter Holiday |
| March 8, 2005 | - | NACo Conference |
| March 29, 2005 | - | Easter Holiday |
| May 31, 2005 | - | Memorial Day Holiday |
| July 5, 2005 | - | Summer Holiday |
| July 12, 2005 | - | Summer Holiday |
| September 6, 2005 | - | Labor Day Holiday |
| November 22, 2005 | - | Thanksgiving Holiday |
| December 20, 2005 | - | Christmas Holiday |
| December 27, 2005 | - | Christmas Holiday |

2005 Night Meeting Schedule

January 11, 2005
February 9, 2005
March 15, 2005
April 12, 2005
May 10, 2005
June 14, 2005
July 19, 2005
August 9, 2005
September 13, 2005
October 11, 2005
November 8, 2005
December 13, 2005

Council meetings will start at 6:30 p.m.
Zoning hearings will start at 7:45 p.m.

Motion Adopted: 5 Yea.

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

Wastewater
Agreement

Mr. Stickels presented a wastewater agreement for Warwick Cove, L.L.C. for wastewater facilities to be constructed in the Oak Orchard Sanitary Sewer District.

**M 638 04
Execute
Wastewater
Agreements**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 329, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Warwick Cove, L.L.C., for wastewater facilities to be constructed in Warwick Cove, located in the Oak Orchard Sanitary Sewer District.

**Update/
C/Z
No. 1554**

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.

The Planning and Zoning Commission held a Public Hearing on this application on September 23, 2004 at which time they recommended that action be deferred and that the record should be left open for DelDOT comments and that the speakers in opposition should be notified when the comments are received so that they can have 15 days to review the comments.

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 15 days for DelDOT’s comments and the Planning and Zoning Commission’s recommendation and then allowed an additional 15 days for public review of the information received.

Mr. Lank, Director of Planning of Zoning, reported that DelDOT’s comments were received on October 12, 2004; the Planning and Zoning Commission was advised by mail on October 13, 2004; and the County Council received copies on October 12, 2004. The opposition that participated the Public Hearing before the Planning and Zoning Commission were also provided copies on October 12, 2004.

Mr. Lank reported that additional comments were received from T. William Brockenbrough of DelDOT on October 12, 2004 in reference to Jim Town Road. There were also additional comments received from Ralph Reeb of DelDOT on October 22, 2004.

Mr. Lank reported in the letter dated October 22, 2004, Mr. Reeb asks the County Council to defer action on the proposed Marine Farm rezoning and to leave the public record open for additional DelDOT comments through at least December 1, 2004. (Mr. Lank read the letter in its entirety.)

Mr. Lank reported that a response was received from Mr. Frank Kea of

Update/
C/Z
No. 1554
(continued)

Marine Farm, L.L.C. to Mr. Reeb's letter in which Mr. Kea states that the idea that Jim Town Road was omitted from consideration that TIS was only recently brought to DelDOT's attention is apparently incorrect and misleading and that Jim Town Road has always been a consideration in correspondence with DelDOT. The letter also states that Marine Farm stands by its pledge to provide the improvements stipulated in their letter addressed to Mike Miller, dated October 11, 2004, which was made part of the record during the County Council hearing. The letter also states that it is evidenced by Orth Rodgers & Associates, Inc. that it is clear without any connection to Jim Town Road from the project, there is no need for further study on the part of DelDOT or need to defer action on the part of the Sussex County Council in relation to that issue. (Mr. Lank read the letter in its entirety.)

M 639 04
Defer
Action on
C/Z
No. 1554

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on Change of Zone No. 1554, filed on behalf of Marine Farm, L.L.C. and to leave the record open until the close of business on December 14, 2004 for additional written comments from DelDOT and thereafter, to leave the public record open until the close of business on December 28, 2004 for written responses from the public.

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. Veterans' Day

Sussex County government offices will be closed on Thursday, November 11, 2004, to allow the employees to observe Veterans' Day. County offices will reopen at 8:30 a.m. on Friday, November 12, 2004.

2. Beneficial Acceptance

The Sussex County Engineering Department has granted Beneficial Acceptance for the following projects:

- The Village at Bear Trap Dunes, Phase 5B, Agreement No. 315, was granted Beneficial Acceptance on October 26, 2004. The developer is Carl M. Freeman Associates, Inc., and the project is located at the intersection of County Roads 368 and 84 in the South Bethany Sanitary Sewer District, consisting of 20 townhouses and 15 single-family homes.
- Donohoe Subdivision, Agreement No. 324, was granted Beneficial Acceptance on October 28, 2004. The developer is Leo Donohoe and the project is located on County Road 361 in the South Bethany Sanitary Sewer District, consisting of five single-family

lots.

A fact sheet on each of the projects is included with this report.

3. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

Adminis-
trator's
Report
(continued)

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, November 15, 2004, at 10:00 a.m. The meeting will take place in the Conference Room at the Sussex County West Administrative Complex, North DuPont Highway, Georgetown, Delaware. The speaker will be Sally VanSchaik from Easter Seals. The media as well as the general public is welcome to attend.

1. Sussex County Community Development and Housing Division

Included with this report is a list of 18 public hearings that have been scheduled by the Sussex County Community Development and Housing Division to assist local municipalities in applying for Community Development Block Grant funding. The meetings will be conducted by William C. Lecates, Director, and his staff. I would encourage the general public to attend the meeting in their community.

2. Citizens' Coalition, et al., vs. County Council, Fannin, et al.

I am pleased to inform the County Council that on November 5, 2004, the Supreme Court affirmed the Court of Chancery's decision of April 30, 2004, in the case of the Citizens' Coalition vs. Sussex County Council and Elmer Fannin. In the Court of Chancery, the Citizens' Coalition attempted to have the County's decision in C/Z No. 1454 set aside. The rezoning granted to Country Life Homes the zoning necessary to develop 185 units on 30.63 acres ± on Plantations Road. The Court of Chancery found that the County Council had held an appropriate hearing, that it had considered the elements that they are required to consider by law, and that the decision was supported by substantial evidence on the record.

The appeal to the Supreme Court focused on the issue of whether the record supported the decision of the Council. The Supreme Court, during oral argument, was particularly interested in the Chancery Court's opinion reciting various points of evidence or transcription of testimony that reflected debate by the Council during its deliberation and the individual members' articulation of reasons for voting in support of the application. In this regard and in all other matters, the Order of the Supreme Court upheld the decision of the Council and the Court of Chancery.

**Piney Neck
Wastewater
Treatment
Facility
Expansion/
Loan
Request**

Mr. Baker asked the County Council to authorize a loan request from the USDA Rural Development Agency to fund the purchase of land for the Piney Neck Treatment Expansion Project in the Dagsboro – Frankford area. The total estimated costs are \$7,150,000. Mr. Baker reported that the project is not eligible for any State or USDA grants at this time since the expansion is for anticipated new growth. The funding for this project is as follows: \$100,000 State Planning Grant for the Planning Study; \$450,000 County County Realty Transfer Tax Grant FY 04; \$1,000,000 County Council Realty Transfer Tax Grant FY '05; and \$5,600,000 Estimated Loan Funding from the USDA. The terms of the USDA loan funding is a term of 40 years at 4.5 percent. Mr. Baker reported that the debt service for the requested loan would be approximately \$303,000 annually. The County plans to pay for this with connection fee revenue from growth in the district. Mr. Baker told Council that he is asking for permission to apply for the loan; future action will be needed for a bond ordinance, which will be subject to a public hearing.

**Piney Neck
Wastewater
Treatment
Facility
Expansion/
Loan
Request
(continued)**

**M 640 04
Approve
USDA
Loan
Request**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the Sussex County Council approve a request to the USDA – Rural Development for a loan for approximately \$5.6 million to fund the costs of expansion of the Piney Neck Treatment Facility.

Motion Adopted: 5 Yea.

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

**Hunting
Lease/
Cannon
Property**

Mr. Baker presented a Proposed Hunting Lease between Sussex County Council and 4Shot Gun Club on land known as the Cannon properties, which total approximately 143 acres, near the Piney Neck Treatment Facility. The 4Shot Gun Club rented this land from the former owner of the land, Mr. Cannon, for approximately 15 years.

Mr. Baker reviewed the terms of the Proposed Hunting Lease:

- Five year with automatic renewals, subject to mutual agreement.
- Rent - \$6.50 per acre with COLA of 3 percent per year, approximately \$928 per year.
- Adequate Liability Insurance approved by the County.
- County can run soil tests, perform surveys, etc. after notifying Club.
- County can terminate lease with sixty days notice.
- No lease assignment or subletting is allowed.
- County can reduce lease acreage as needed after notifying Club.
- Hunt Club to provide a list of all Club members.
- Property Included – Cannon Tracts near Piney Neck Treatment Facility, approximately 143 acres.
- No guests are allowed to hunt.
- Hunt Club to monitor and post property.

M 641 04
Authorize
Hunting
Lease/
4 Shot
Gun Club

A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the Sussex County Council authorizes a Hunting Lease to the 4 Shot Gun Club, as recommended, and subject to final approval by the County Engineer and receipt of acceptance of proof of insurance.

Motion Adopted: 5 Yea.

M 641 04
(continued)

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

Old
Business/
C/U
No. 1557

The County Council discussed the Proposed Ordinance entitled “A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (95 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 22.24 ACRES, MORE OR LESS” (Conditional Use No. 1557) filed on behalf of Clinton Properties, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on September 16, 2004 at which time they recommended that the application be approved with nine conditions.

The County Council held a Public Hearing on this application on October 5, 2004 at which time they deferred action for a period of two weeks, until the close of business on October 19, 2004, for more specific data on the amount of State and Federal Wetlands existing on the site.

Mr. Lank, Director of Planning and Zoning, reported that a letter has been received from the Applicant’s engineer relating to the wetlands and the density calculation. Of the 22.24 acre parcel, there were 7.55 acres of wetlands, of which 7.12 acres are considered State tidal wetlands. The gross density of 22.24 acres with 84 units is approximately 3.77 dwelling units per acre; if you take out the State wetlands, it would come out to 15.03 acres and a density of 5.88 dwelling units per acre; and if you take out the total wetlands, it would come out to 14.69 acres and a density of 5.71 dwelling units per acre.

M 642 04
Reduce
Number
of Units
(C/U
No. 1557)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to reduce the number of units to 62 residential units.

Motion Denied: 3 Nay, 2 Yea.

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

**M 643 04
Adopt
Ordinance
No. 1724
(C/U
No. 1557)**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1724 entitled “A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (95 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 22.24 ACRES, MORE OR LESS” (Conditional Use No. 1557) filed on behalf of Clinton Properties, L.L.C, as amended, with the following conditions:

**M 643 04
(continued)**

1. The maximum number of residential units shall not exceed 84.
2. The project shall be served by a County sanitary sewer district a central water system.
3. All amenities shall be open to use by the residents of the project with two years of issuance of the first building permit.
4. A 50-foot wide buffer shall be maintained from all State wetlands.
5. Stormwater management and erosion and sediment control shall use Best Management Practices to reduce the affects on any wetlands.
6. No construction activities, site work or deliveries of material on, off or to the property shall occur except between the hours of 7:00 a.m. and 6:00 a.m. Monday through Saturday.
7. Streetlighting and sidewalks shall be provided throughout the project and shall be shown on the final site plan.
8. The boat ramp shall be private and open to the use of the project’s residents and guests only.
9. There shall be no boat docks or slips or moorings for boats on the small lagoon east of the project.
10. The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.
11. Mapping and addressing shall be subject to the approval of the Mapping and Addressing Department.

Motion Adopted: 3 Yea, 2 Nay.

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

Requests

Mr. Stickels presented grant requests for the Council’s consideration.

**M 644 04
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250.00 from Mr. Dukes’ Councilmanic Account to the Town of Blades for the Annual Blades Kids Christmas Craft Bazaar.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea

M 645 04 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$700.00 (\$200.00 each from Mr. Jones' and Mr. Phillips' Councilmanic Accounts and \$100.00 each from Mr. Dukes', Mr. Rogers', and Mr. Cole's Councilmanic Accounts) to Sussex Central High School for the *Meet the Challenge* Program.**

M 645 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**

M 646 04 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 (\$100.00 from each Councilmanic Account to the Mason-Dixon Woodworkers for toy making supplies.**

Motion Adopted: 5 Yea.

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

Consensus to Draft Ordinance **Mr. Stickels asked for and received a consensus of the Council to direct the County Attorney to draft an ordinance requiring that applicants of change of zone and conditional use applications to be current on their taxes and sewer fees on all of their properties.**

Public Hearing (C/U No. 1562) **At 7:46 p.m., a Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DOCTORS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.601 ACRES, MORE OR LESS" (Conditional Use No. 1562) filed on behalf of Patrick Swier, M.D.**

The Planning and Zoning Commission held a Public Hearing on this application on October 14, 2004 at which time they deferred action. On October 28, 2004, they recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated October 14, and 28, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Council's record.

**Public
Hearing
(C/U
No. 1562)
(continued)**

The Council found that the Dr. and Mrs. Swier were present with James Fuqua, Attorney. They stated that they propose to construct a doctors' office; that they proposed a two-story building containing 6,000 square feet; that the site is presently two parcels; that the two parcels will be combined into one buildable lot; that there will be no encroachments into setbacks; that the entrance is proposed to the westerly portion of the lot; that parking will be to the rear of the building; that the offices are proposed to be set back 84 feet from the front and 60 feet or more from the westerly property line; that wetlands will be left in its natural state with conservation easements for non-disturbance; and that a tree buffer will be established on the western side of the property, if required, however, they would like some flexibility on the buffer to be able to do what the neighbor prefers (on the western side).

Public comments were heard.

Barbara Hearn stated that she is opposed to the application; that she is opposed to the location; that the size of the building is out of character with the neighborhood; that other conditional uses on this site were rejected due to the size of the buildings proposed and that this building is proposed to be larger than the other buildings; and that she is opposed to lighting, business hours, weekend activities, and the driveway location.

The Public Hearing was closed.

**M 647 04
Defer
Action
on C/U
No. 1562**

A Motion was made by Mr. Jones, seconded by Mr. Cole, to defer action on Conditional Use No. 1562 filed on behalf of Patrick Swier, M.D.

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. 1591)**

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 MODEL HOME DISPLAY AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.02 ACRES, MORE OR LESS, OF A 2.90 ACRE TRACT" (Conditional Use No. 1591) filed on behalf of Louis J. Travalini, Sr.

The Planning and Zoning Commission held a Public Hearing on this application on October 14, 2004 at which time they recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated October 14, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Public
Hearing
(C/U
No. 1591)
(continued)

Mr. Lank explained that the site plan shows three buildings and that there are two currently two houses on the property; that the original intent of the applicant was that one building would be used for an office and the other two buildings used as two model homes display.

The Council found that Louis Travalini was present. He stated that he proposes an office with model homes display; that he may convert the models to professional offices in the future; that no retail stores would be established; that there would be no entrance on Route 26; that the entrance would be on Road 346; that each building will have a separate parking area; that the wetlands were identified and the conditional use boundaries became the wetlands line reducing the application site to 1.02 acres; and that three septic systems have been approved by DNREC.

Mr. Lank stated that the applicant is only permitted to have one residential unit on the site.

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

M 648 04
Defer
Action
on C/U
No. 1591

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Conditional Use No. 1591, filed on behalf of Louis J. Travalini, Sr.

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. 1596)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12,591 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1596) filed on behalf of Carole A. Lefitsky and Sara Tammany.

The Planning and Zoning Commission held a Public Hearing on this application on October 14, 2004 at which time they deferred action. On October 28, 2004 they recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated October 14 and October 28, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Public
Hearing
(C/U
No. 1596)
(continued)

The Council found that the applicants were present with Steve White, one of the owners of First State Appraisals. They stated that the site plan has been revised since the rezoning request; that the garage will be used for file storage; that the only sign on the site will be on the front door; that security lighting will be installed; that no clients come to their office; that the majority of their business is done by phone, fax or email; that privacy fencing will be installed to the north and the west; that the building will have a residential character; and that business hours are from 9:00 a.m. to 5:00 p.m. seven days per week.

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

M 649 04
Adopt
Ordinance
No. 1725
(C/U
No. 1596)

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1725 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12,591 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1596) filed on behalf of Carole A. Lefitsky and Sara Tammany, with the following conditions:

1. There shall be no signs on site aside from the one on the front door.
2. Any security lights shall only be installed on the buildings and shall not shone on neighboring properties.
3. The hours of operation for the business on this site shall be limited to 9:00 a.m. to 5:00 p.m. seven days per week.
4. Privacy fencing or planted screens shall be constructed along the boundaries of the property adjacent to any other residential property.
5. The conditional use of the building shall be limited to professional offices.
6. The structure shall maintain a residential character.
7. 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

M 650 04

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to adjourn at

Adjourn 8:52 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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