

MINUTES OF THE REGULAR MEETING OF MARCH 24, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, March 24, 1994, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Ralph, Mr. Magee, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve the minutes of March 10, 1994 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1069--Ronald B. & Linda Tower Pevey

Ronald and Linda Pevey, and James Fuqua, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Seaford Hundred for a Private Aircraft Landing Strip lying on the east side of Route 550, 0.3 mile north of Route 80 to be located on a parcel containing 70.60 acres more or less.

Mr. Lank summarized comments received from the Office of the Secretary of the State Department of Natural Resources and Environmental Control (DNREC), the Delaware Department of Transportation (DelDOT), the Delaware Department of Agriculture, and the Sussex Conservation District.

Mr. Lank read letter received in support of the application from the Seaford Volunteer Fire Department, Inc., Vegetable Growers Association of Delaware, Inc., and Delaware Airpark.

Mr. Fuqua advised the Commission that the applicants propose to utilize the site for their aerial spraying business, that the business sprays chemical fertilizers and pesticides on crops and forest, that the area is predominantly agricultural, that the airstrip will measure approximately 125' in width and 2500' in length, that the airstrip will be graded and then seeded to establish a grass runway, that the existing dwelling will be occupied by the applicants, that the garage will be converted into an office, and the Morton storage building will be utilized as a hangar and for storage of equipment and chemicals, that above ground fuel and water storage will be installed for the business, that chemicals are delivered to the site for specific jobs, that a minimum amount of chemicals will be stored on the site, that currently the business has two (2) spray planes, that the applicants would like the option of having a maximum of three (3) aircraft on site, that typical business season is April to September, that the season peaks from July to August, that the

majority of the aerial spraying is performed during morning hours or early evenings, that the busiest business day may include seven (7) to eight (8) flights, that the most noise created by the aircraft is during takeoffs, that a containment pad for washing planes will be created on the site per specification of the Department of Agriculture and the State DNREC, that the applicant has been in the aerial spraying business since 1976, that the business will serve the general westerly area of Sussex County and the adjoining counties of Maryland, that fuel will not be sold from the site, that maintenance mechanical work will be performed by the applicant, that the airstrip will be utilized by the applicant and a pilot who may be hired for the business, that the applicants have prepared an emergency plan for submittal to the Emergency Operation Center and the Seaford Volunteer Fire Co., that similar uses are limited in the County, that the use is needed for the agricultural community, that the Western Sussex Land Use Plan maps the area in an Agricultural District, and that since the use is primarily for agricultural there should be no negative impact.

Mr. Pevey advised the Commission that at least nine (9) out of ten (10) take offs will be toward the west and that when flying to and from private airstrips you are permitted to adjust your flight path so that you do not have to fly over residences.

Mike Preola, William O'Day, and Vance Phillips spoke in support of this application and supported the need for the intended use to serve the agricultural industry.

Vance Phillips, a Realtor, stated that he has researched records and does not feel that the use will impact property values.

Robert English, Debbie Nichols, and Donald Allen questioned the impact on property values, the distances from dwellings of other ownership, and future impacts on the environment.

At the conclusion of the public hearings, Mr. Ralph, Acting Chairman, referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments had been requested from the DNREC Division of Fish and Wildlife, the DNREC Division of Parks and Recreation, the DNREC Division of Soil and Water Conservation, the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, the Delaware Department of Agriculture, DelDOT, and the Sussex Conservation District.

The Commission found, based on comments received from DelDOT, that the proposal will have no significant impact on traffic.

The Commission found, based on comments received from the Delaware Department of Agriculture, that the applicant is a certified and licensed pesticide applicator in the State of Delaware, that the applicant has met the competency standard and insurance requirements to commercially apply pesticides for agricultural and forest pests, that the applicants operation is a vital part of the agricultural infrastructure of central and southern Delaware, that the applicant is responsive about environmental issues surrounding pesticides and water quality, that the applicant has agreed to build a pesticide containment structure to insure public health and safety, that the containment structure (rinse pad) will be used to rinse-off all spray aircraft following aerial application of pesticides and fertilizers, and that the Department of Agriculture and the DNREC request that the County Council require the containment structure as a stipulation of approval.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements. that on-site drainage improvements may be needed, that the soils are mapped as Evesboro loamy sand, Woodstown sandy loam, Klej loamy sand, and Fallsington sandy loam, that the Evesboro soils may have none to slight limitations, that the Woodstown and Klej soils may have moderate limitations, that the Fallsington soils may have severe limitations, due to wetness, if not adequately drained, that the applicant may be required to follow and Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil types are considered both prime and of statewide importance.

The Commission found, based on a letter received from the Seaford Volunteer Fire Department, Inc., that the applicant has provided the Fire Department with a list of chemicals normally uses in aerial spraying so that the Fire Department has the necessary data in case of an emergency.

The Commission found, based on comments received from the Vegetable Growers Association of Delaware, Inc., that the Association supports the application and feel that the use of AR-1 ;and for a crop dusting landing strip appropriate, and that the use will support the industry and benefit the farm community in the County.

The Commission found, based on comments received from the Delaware Airpark, that the applicant has operated his business from the airpark since 1989 and has operated in a professional manner, complied with all FAA regulations regarding the use of the airpark, maintain their aircraft in excellent condition, and have always been diligent about handling of pesticides safely so as to avoid any spills, leaks, etc...

The Commission found that the applicant and an attorney were present and advised the Commission that the applicants propose to utilize the site for their aerial spraying business, that the business sprays chemical fertilizers and pesticides on crops and forest, that the area is predominantly agricultural, that the airstrip will measure approximately 125' in width and 2500' in length, that the airstrip will be graded and then seeded to establish a grass runway, that the existing dwelling will be occupied by the applicants, that the garage will be converted into an office, and the Morton storage building will be utilized as a hangar and for storage of equipment and chemicals, that above ground fuel and water storage will be installed for the business, that chemicals are delivered to the site for specific jobs, that a minimum amount of chemicals will be stored on the site, that currently the business has two (2) spray planes, that the applicants would like the option of having a maximum of three (3) aircraft on site, that typical business season is April to September, that the season peaks from July to August, that the majority of the aerial spraying is performed during morning hours or early evenings, that the busiest business day may include seven (7) to eight (8) flights, that the most noise created by the aircraft is during takeoffs, that a containment pad for washing planes will be created on the site per specification of the Department of Agriculture and the State DNREC, that the applicant has been in the aerial spraying business since 1976, that the business will serve the general westerly area of Sussex County and the adjoining counties of Maryland, that fuel will not be sold from the site, that maintenance mechanical work will be performed by the applicant, that the airstrip will be utilized by the applicant and a pilot who may be hired for the business, that the applicants have prepared an emergency plan for submittal to the Emergency Operation Center and the Seaford Volunteer Fire Co., that similar uses are limited in the County, that the use is needed for the agricultural community, that the Western Sussex Land Use Plan maps the area in an Agricultural District, that since the use is primarily for agricultural there should be no negative impact, that at least nine (9) out of ten (10) take offs will be toward the west and that when flying to and from private airstrips you are permitted to adjust your flight path so that you do not have to fly over residences.

The Commission found that three parties spoke in support of the application and supported the need for the intended use to serve the agricultural industry.

The Commission found that a Realtor spoke in support of the application who had researched records and did not feel that the use will impact property values.

The Commission found that three parties questioned the impact on property values, the distance from dwellings of other ownership, and future impacts on the environment.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to defer action.

2, RE: C/U #1070--West Side New Beginnings, Inc.

Minnie Smith and James Fuqua, Attorney, were present on behalf of West Side New Beginnings, Inc. to consider the Conditional Use of land in a GR General Residential District in Lewes and Rehoboth Hundred for a Private Club/Community Activity Center lying on the southeast corner of the intersection of Norwood Street and Burton Avenue in the West Rehoboth Development to be located on a parcel containing 17,500 square feet more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the Sussex County Engineering Department.

Ms. Smith and Mr. Fuqua advised the Commission that the corporation proposes to utilize the site for a community activity center, not a private club, that the center will serve the community of modest homes, that they propose to build a 3,750 square foot building for educational programs, tutoring, training, fund raising events (dances, dinners, etc...), that the building will have a snack bar, that the building will be completed when public sewer is available, that an office will be located within the building for a program coordinator, that all activities will be supervised, that the center should create a positive social impact on the area, that the corporation, a non-profit organization, was officially established in 1992, that area citizens are concerned about improving the community, that several property cleanups have taken place in the development as a community effort, that the corporation has approximately 35 members, of which 6 are active, that no alcoholic beverages are proposed to be allowed on premises, and that the corporation has no objection to a stipulation on the Conditional Use that the application be limited to a non-profit organization.

Ellen Smith, Bernice Edwards, James Smith, Bruce Wright, and Joseph Conaway, spoke in support of the application and stated that the project should pull the community together to improve the area, that the intended programs are cultural and educational oriented, that the use should be a benefit to the children of the area, and that the Delaware Alcohol Beverage Commission will not issue a license for alcoholic beverage sales within 1,000 feet of a church, thereby restricting this site from being allowed to apply.

At the conclusion of the public hearings, Mr. Ralph, Acting Chairman, referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Sassafras sandy loam which has slight limitations, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil type is prime.

The Commission found, based on comments received from the Sussex County Engineering Department, that the proposal is located in Phase I of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District where the Department anticipates sewer service to be available by September 1995, that the County will accept holding tank wastewater at the Inland Bays or South Coastal Regional Wastewater Facilities in the interim, and that property owners should be aware that no capitalization fees will be required, if the project is tax exempt.

The Commission found that the application was represented by a member of the corporation and an attorney who advised the Commission that the corporation proposes to utilize the site for a community activity center, not a private club, that the center will serve the community of modest homes, that they propose to build a 3,750 square foot building for educational programs, tutoring, training, fund raising events (dances, dinners, etc...), that the building will have a snack bar, that the building will be completed when public sewer is available, that an office will be located within the building for a program coordinator, that all activities will be supervised, that the center should create a positive social impact on the area, that

the corporation, a non-profit organization, was officially established in 1992, that area citizens are concerned about improving the community, that several property cleanups have taken place in the development as a community effort, that the corporation has approximately 35 members, of which 6 are active, that no alcoholic beverages are proposed to be allowed on premises, and that the corporation has no objection to a stipulation on the Conditional Use that the application be limited to a non-profit organization.

The Commission found that five parties spoke in support of the application since the center should pull the community together to improve the area, that the intended programs are cultural and educational oriented, that the use should be a benefit to the children of the area, and that the Delaware Alcohol Beverage Commission will not issue a license for alcoholic beverage sales within 1,000 feet of a church, thereby restricting this site from being allowed to apply.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use is needed in the area to serve the community, and with the stipulation that the Site Plan be subject to review and approval by the Planning and Zoning Commission.

3. RE: C/U #1071--Prettyman Broadcasting Co.

Mark Wayner and Thomas Ringer were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Radio Station and Broadcast Studio lying on the northwest corner of Route 17 and Route 371 to be located on a parcel containing 4.10 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Indian River School District.

Mr. Wayner and Mr. Ringer advised the Commission that they propose to establish an office and broadcast facility, that the facility will be operational seven (7) days per week twenty-four (24) hours a day, that there should be no noise or negative impact on the neighborhood, that a short relay tower will be placed on the site for relays to the Ocean Pines tower site, that the relay tower will not exceed 150 feet in height, that the adjoining site has a tall radio tower on the site for another radio station, that they have offered tower space for repeaters to the County and the Roxana Fire Company, that the building

proposed will be similar to a 40' by 60' ranch style dwelling, that the company presently has 6 employees, that the number of employees may be increased to 9, that on Monday to Friday the facility will be operated similar to an office with a full staff of employees, that the company owns 6 stations on the peninsula, that the station provides adult music for its listeners, that the company presently occupies a commercial space in Roxana, that the radio tower will not exceed 150' in height, that the facility does broadcast 24 hours a day, but does not have staff on site at all times thanks to computers, that the company is licensed for the Ocean Pines site, which contains the primary tower, that the application site is within the contour of the tower at the Ocean Pines site and is appropriate for the broadcasting facility, and that no negative impact is anticipated on TV reception.

Joseph Conaway, a Realtor representing the owners of the property, stated that the use blends with the community since the neighboring use is a tall radio tower.

William Wilgus, an adjoining owner, spoke in opposition and expressed concerns that the use is improper as a conditional use since the use is not specifically listed and falls into a catch-all category, that the area is primarily agricultural, that his family has owned their farm for five generations, that the adjoining tower site was approved in 1974 for a tower only, that the soils on the site are mapped as prime farmland, that the Wilgus farm has historically been good economic farmland, that the closest commercial zone is in Roxana approximately 0.5 miles away, that the application cannot be supported by the Coastal Sussex Land Use Plan, that there are other and better sites for this type of use, rather than in the middle of an agricultural area, that there is no buffer between the site and the Wilgus farm, that they can live with the adjoining tower, which creates no impact, but they do not support this application for a tower, office and large parking lot in an agricultural area.

At the conclusion of the public hearing, Mr. Ralph, Acting Chairman, referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the use will have an impact on the District.

The Commission found, based on comments received from the Sussex Conservation District, that no atorm flood hazard area is affected, that it may not be necessary for any off-site drainage improvements, that on-site drainage may be needed, that an agriculture tax ditch runs along the west property line with a 16.5' right of way along the ditch, that the soils are mapped as Woodstown sandy loam and Fallsington sandy loam, that the Woodstown soils may have moderate limitations, that the Fallsington soils may have severe limitations if not adequately drained, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil types is considered prime.

The Commission found that two company representatives were present and advised the Commission that they propose to establish an office and broadcast facility, that the facility will be operational seven (7) days per week twenty-four (24) hours a day, that there should be no noise or negative impact on the neighborhood, that a short relay tower will be placed on the site for relays to the Ocean Pines tower site, that the relay tower will not exceed 150 feet in height, that the adjoining site has a tall radio tower on the site for another radio station, that they have offered tower space for repeaters to the County and the Roxana Fire Company, that the building proposed will be similar to a 40' by 60' ranch style dwelling, that the company presently has 6 employees, that the number of employees may be increased to 9, that on Monday to Friday the facility will be operated similar to an office with a full staff of employees, that the company owns 6 stations on the peninsula, that the station provides adult music for its listeners, that the company presently occupies a commercial space in Roxana, that the radio tower will not exceed 150' in height, that the facility does broadcast 24 hours a day, but does not have staff on site at all times thanks to computers, that the company is licensed for the Ocean Pines site, which contains the primary tower, that the application site is within the contour of the tower at the Ocean Pines site and is appropriate for the broadcasting facility, and that no negative impact is anticipated on TV reception.

The Commission found that a Realtor representing the owners of the property stated that the use blends with the community since the adjoining site is used for a tall radio tower.

The Commission found that an adjoining landowner spoke in opposition and expressed concerns that the use is improper as a conditional use since the use is not specifically listed and falls into a catch-all category, that the area is primarily agricultural, that his family has owned their farm for five

generations, that the adjoining tower site was approved in 1974 for a tower only, that the soils on the site are mapped as prime farmland, that the Wilgus farm has historically been good economic farmland, that the closest commercial zone is in Roxana approximately 0.5 miles away, that the application cannot be supported by the Coastal Sussex Land Use Plan, that there are other and better sites for this type of use, rather than in the middle of an agricultural area, that there is no buffer between the site and the Wilgus farm, that they can live with the adjoining tower, which creates no impact, but they do not support this application for a tower, office and large parking lot in an agricultural area.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since a radio tower exist on the adjoining parcel, and since other Conditional Uses and commercial uses exist in close proximity, and with the stipulation that the Site Plan be subject to review and approval of the Planning and Zoning Commission.

4. RE: C/Z #1222--Daniel W. & Ellen M. Magee

James Fuqua, Attorney, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the north side of Route 382, 1,490 feet east of Route 388, to be located on a parcel containing 2.14 acres more or less.

Mr. Fuqua noted that Mr. Allen and Mrs. Monaco were absent and requested that the hearing be continued until the next meeting.

Mr. Schrader concurred with Mr. Fuqua and added that Mr. Magee will have to abstain from the hearing since he is one of the applicants, that two members of the Commission are absent, that the hearing cannot be heard since a quorum does not exist, and that since a quorum did exist at the beginning of the hearing, the hearing could be continued.

Mr. Ralph asked if anyone was present in support of the application or in opposition to the application. Representatives of the applicant were the only ones present.

Mr. Magee announced that he was abstaining from the hearing.

Mr. Schrader announced that the hearing will be continued at the next regular meeting.

5. RE: C/Z #1223--Everett J. Kimmey

Everett J. Kimmey and Robert V. Witsil, Jr., Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the south side of Route 9, 1,200 feet east of Route 262, to be located on a parcel containing 3.29 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Sussex County Engineering Department.

Mr. Witsil and Mr. Kimmey advised the Commission that the applicant is the contract purchaser of the tract, that the applicant proposes to build a commercial retail furniture store, that the proposed building will measure approximately 50' by 99' and will contain concrete floors, that the remainder of the subdivision is zoned either C-1 General Commercial or B-1 Neighborhood Business, that the site abuts Route 9, a highly travelled road, that the site abuts a railroad right of way at the rear, that the site location is not appropriate to residential use due to its location, that access to the site will be from the entrance at T & R Roofing by easement per an agreement with DelDOT, that the use is low volume creating little traffic, that the rezoning will conform to the Coastal Sussex Land Use Plan since the rezoning is located in an area with other commercial parcels along a major roadway, that the applicants present site on Route One has limited view and is at a poor location due to summer traffic, that the site is suitable for septic, that the site contains no mapped wetlands, that the site is limited in size and has no potential for agricultural uses, and that the rezoning is appropriate since it continues an existing commercial district.

No parties appeared in opposition.

At the conclusion of the public hearings, Mr. Ralph, Acting Chairman, referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from DelDOT, that originally the Department had requested a traffic impact study because levels of service at this road segment were poor during peak periods, that a potential for traffic problems could result if too many closely spaced commercial accesses were created within this road segment, that the Department agrees to waive the traffic impact study requirement since previous

arrangement were worked out with adjacent owners within the subdivision to have access from the T & R Roofing site and service roads crossing the other parcels, and that the applicant has agreed to abide by the agreements.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Rumford loamy sand which has slight limitations, that the applicants may be required to follow an Erosion and Sedimentation Control Plan and to maintain vegetative cover, and that the farmland rating of the soil type is considered of statewide importance.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in a restrictive area outlined in a Memorandum of Understanding (MOU) between the County and DNREC, dated April 4, 1990, that by the MOU, the County agreed to restrict any zoning changes to parcels to be connected to County operated sanitary sewer systems, and that the purpose of the MOU was to discourage new subdivisions in the areas outside of the sewer service area.

The Commission found that the applicant was present with his Attorney who advised the Commission that the applicant is the contract purchaser of the tract, that the applicant proposes to build a commercial retail furniture store, that the proposed building will measure approximately 50' by 99' and will contain concrete floors, that the remainder of the subdivision is zoned either C-1 General Commercial or B-1 Neighborhood Business, that the site abuts Route 9, a highly travelled road, that the site abuts a railroad right of way at the rear, that the site location is not appropriate to residential use due to its location, that access to the site will be from the entrance at T & R Roofing by easement per an agreement with DelDOT, that the use is low volume creating little traffic, that the rezoning will conform to the Coastal Sussex Land Use Plan since the rezoning is located in an area with other commercial parcels along a major roadway, that the applicants present site on Route One has limited view and is at a poor location due to summer traffic, that the site is suitable for septic, that the site contains no mapped wetlands, that the site is limited in size and has no potential for agricultural uses, and that the rezoning is appropriate since it continues an existing commercial district.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will be an extension to an existing commercial district.

III. OTHER BUSINESS

1. RE: Donald M. Martin

The Commission reviewed a concept to create three (3) additional lots off of Pit Road near Route 530.

Mr. Abbott advised the Commission that this project received preliminary approval for five (5) lots, that the final record plan was for three (3) lots and that now the developer would like to create the remaining three (3), that the three (3) lots are have been approved for individual on site septic systems, and that the street would have to be built to County or State specifications.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve as a concept.

2. RE: Thomas Eugene Womach

The Commission reviewed a 39 lot strip subdivision on Routes 434, 434A and 472.

Mr. Lank advised the Commission that the staff received a survey from DelDOT for strip lots, that this subdivision is permitted by the zoning and subdivision codes, that the lots are probably being created for manufactured homes, that it is doubtful that the parcels will be used for agricultural purposes due to the narrowness of the lots and setbacks for some of the agricultural uses, and questioned what the Commission's feelings are about these type of subdivisions.

Mr. Magee advised the Commission that this type of subdivision seems to be a waste of land.

Mr. Ralph advised the Commission that the zoning and subdivision codes allows for the subdivision.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to defer action so that Mr. Allen and Mrs. Monaco can participate in this discussion.

3. RE: C/U #1067--Country Friends By Linda

The Commission reviewed a site plan for a craft shop on Route 16 west of Ellendale.

Mr. Abbott advised the Commission that the site plan is the same as was submitted during the public hearing and that the plan meets the requirements of the zoning code.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve the site plan as submitted.

4. RE: C/U #1068--Robert Mitchell

The Commission reviewed the site plan for the above referenced conditional use on Route 277.

Mr. Abbott advised the commission that the site plan is the same as submitted during the public hearing and that the plan meets the requirements of the zoning code.

Motion made by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to approve the site plan as submitted.

IV. OLD BUSINESS

1. RE: C/Z #1220--Arnell Landing Development Corp.

No one was present on behalf of this application to amend the zoning map from AR-1-RPC Agricultural Residential - Residential Planned Community to MR-RPC Medium Density Residential - Residential Planned Community in Lewes and Rehoboth Hundred, located on the west side of Route 274, 1.5 miles south of Route One, to be located on a parcel containing 90.01 acres more or less.

Mr. Ralph, Acting Chairman, referred back to this application which has been deferred since March 10, 1994.

The Commission discussed the points and issues raised during the public hearing.

Mr. Magee stated that there did not seem to be any objections to the reduced lot sizes, that an appraiser on behalf of the opposition indicated that the plan was appropriate, that the major objections were centered around the recreational area within Arnell Creek Subdivision, the use of the recreational area, and the proposed street interconnection between the two projects.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The maximum number of lots shall not exceed one hundred forty (140).
2. The concept of the layout of the subdivision shall be retained as submitted to the Planning and Zoning Commission.
3. The streets shall be public streets built to State specifications.
4. The open space presented in the preliminary plan shall be retained as indicated.
5. A dry sewer system shall be installed to meet specifications set forth by the County Engineer, for inclusion in the west Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
6. There shall be no commercial uses within the RPC Residential Planned Community.

And with the recommendation that the County Council defer action on this application pending receipt of comments from DelDOT and the Office of the State Fire Marshal in reference to the interconnection of streets.

2. RE: Subd. #93-10--Bayard B. Layton

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred by dividing 32.98 acres into 27 lots, located on the north side of Route 496, 0.31 feet mile west of Route 493.

Mr. Abbott advised the Commission that the plan has been revised to 24 lots with a minimum of one acre in size, that DNREC is requesting that a community wastewater disposal system be installed, but that the developer is going to install individual on site septic systems for economic reasons.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve as a preliminary.

3. RE: Subd. #94-3--Fairways Oaks Co.

Mr. Abbott advised the Commission that the developers attorney has requested that action be deferred until the developer meets with DNREC.

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Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to defer action.

Meeting adjourned at 10:05 PM.