

MINUTES OF THE REGULAR MEETING OF APRIL 14, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 14, 1994, at 7:30 P.M., in the Court of Common Pleas, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Magee, seconded by Mr. Ralph and carried unanimously to approve the minutes of March 24, 1994, as circulated.

II. PUBLIC HEARINGS

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

Ellen Magee and James Fuqua, Attorney, were 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. Magee withdrew from the Commission and abstained from participating on this application since he is one of the applicants.

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

Mr. Lank read a letter received in support from Roland C. Scott, an adjoining land owner.

Mr. Fuqua advised the Commission that the site contains 2.14 acres and is improved by a 30' by 60' one-story structure that was formerly used as a feed house and for storage purposes, that on-site water and septic will be provided, that the entire parcel has been requested for rezoning since the drainfield will have to be placed on the rear portion of the parcel, that traffic should be at a minimum since the use intended is for office and/or retail within the existing structure, that DelDOT has reported no impact on traffic with the rezoning, that fire protection will be provided by the Roxana Volunteer Fire Co., that solid waste will be handled by a private contractor, that the area is mixed with commercial and residential development, and that off-street parking will be provided on the right side of the structure.

Mrs. Magee advised the Commission that no parking signs will be placed along Route 382.

Mr. Fuqua submitted a reduced copy of the County Tax Map of the area which exhibited commercial sites and dates of approval showing a trend established by the County to approve commercial activities in the area.

No parties appeared in opposition.

At the conclusion of the public hearing, the 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 Indian River School District, that at this time it does not appear that the rezoning will have a significant impact on the district.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Route 382 may increase to a level of service "C" assuming development of the site as Discount Shopping generating on a per acre basis.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Pocomoke sandy loam which has severe limitations due to wetness 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, that no storm flood hazard area or tax ditch is affected, that off-site drainage improvements are not necessary, and that on-site drainage improvements may be necessary.

The Commission found that a letter was received from an adjoining land owner in support of the application.

The Commission found that one of the applicants was present, with an attorney, and advised the Commission that the site contains 2.14 acres and is improved by a 30' by 60' one-story structure that was formerly used as a feed house and for storage purposes, that on-site water and septic will be provided, that the entire parcel has been requested for rezoning since the drainfield will have to be placed on the rear portion of the parcel, that traffic should be at a minimum since the use intended is for office and/or retail within the existing structure, that DelDOT has reported no impact on traffic with the rezoning, that fire protection will be provided by the Roxana Volunteer Fire Co., that solid waste will be handled by a private contractor, that the area is mixed with commercial and

residential development, that off-street parking will be provided on the right side of the structure, and that no parking signs will be placed along Route 382.

The Commission found that the applicant submitted a reduced copy of the County Tax Map of the area which exhibited commercial sites and dates of approval showing a trend established by the County to approve commercial activities in the area.

The Commission found that no parties appeared in opposition.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried with 4 votes, Mr. Magee abstaining, 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 C-1 General Commercial District and since the site has historically been used commercially for a feed house and storage.

2. RE: C/Z #1224--Delaware State Housing Authority

Jerry Jones, Correine Todd-Grieve, Lynn Bee, and Cathy Gregory of the Delaware State Housing Authority, Benjamin Kitchen, Architect, and James Fuqua, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to MR Medium Density Residential in Lewes and Rehoboth Hundred, located on the southeast side of Road 285, 0.4 miles southwest of Road 275 at Five Points, to be located on a parcel containing 19.53 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Office of the Secretary of the State Department of Natural Resources and Environmental Control (DNREC), the County Engineering Department, the Sussex Conservation District, the DNREC Division of Fish and Wildlife, the DNREC Division of Water Resources Underground Discharges Branch, the Delaware Health and Social Services Division of Public Health, the Delaware Department of Agriculture Division of Resource Management, the DNREC Division of Water Resources Pollution Control Branch, Tidewater Utilities, Inc., and the DNREC Division of Water Resources Water Supply Branch.

Mr. Fuqua advised the Commission that the application was being presented with two references, a rezoning to MR Medium Density Residential and a Conditional Use for 80 multi-family units, that the rezoning is necessary to permit the units, that it will be necessary for the Commission to make a major land use decision, that traditionally the Housing Authority draws a lot of opposition, that this application will include two phases of

development with the first phase containing 35 units and a community building and the second phase containing 45 units, that the units will be built for the Housing Authority, a State agency, to provide affordable housing, that the Housing Authority has established a need for housing assistance in this area and has chosen this site as the most appropriate site for the use, that the project will conform to the unit density of four (4) units per acre permitted in a MR Medium Density Residential District, that Tidewater Utilities, Inc. is willing and able to provide central public water utility service for the project, that the County Engineering Department can provide sewer service to the project through a contract with the County Council since the Housing Authority is a Governmental agency, that all cost of the sanitary sewer will be assumed by the Housing Authority, that one entrance is proposed off of Road 285, that the DelDOT report indicates no impact on traffic, that the site is in close proximity to major roads, that shopping areas are in close proximity along Route One, that fire protection will be provided by the Lewes Fire Department, that police protection will be provided by the Delaware State Police, that environmentally there should be no negative impacts since there are no wetlands on the site, since central water and sewer are to be provided, since no storm flood hazard areas are impacted, since there are no tax ditches affected, that medical facilities are in close proximity, that viable economic opportunities exist in the area, that the site is located in the Cape Henlopen School District, that the nature of development in the general area is mixed residential/agricultural/commercial, that the use conforms to the Coastal Sussex Land Use Plan since: a goal of the Plan is to protect the environment while providing adequate housing, a stable economy and employment opportunities; that even though the site is not in the Coastal Conservation Zone it will be served by central sewer and water; that the site and area is unlikely to remain as agricultural due to the location; that the site is logically to be located in the Development Zone where development is intended, that the mapped development zone was based on existing development patterns and sewer districts, that the site has residential subdivision adjacent and will be served by a Sewer District; that the project will conform to the projected growth rates; that multi-family dwellings would only be permitted where central water and sewer systems are provided; that new planning concepts and innovative techniques for residential dwellings are encouraged; and that the housing is needed to accommodate the projected increases in the year round population of Coastal Sussex; and that the Department of Agriculture stated no major objections in their comments.

Mr. Kitchen described the existing features of the site and advised the Commission that a minimum buffer width of 70 feet

will be provided along the sides and rear of the site, that a minimum setback of 185 feet will be provided from the Gosling Creek property line to the nearest building, that a minimum setback of 285 feet will be provided from Road 285 to the nearest building, that the entrance drive in Phase One will not have any units directly fronting the drive, that recreational areas and tot lots will be provided and maintained, that a storm water retention area will be provided on the site, that the first phase will include 35 units within 8 buildings, that the maximum number of units per building will be eight, that the buildings are one and two story frame construction with vinyl siding designed in character with the newer housing in the area, that the buildings are not designed to appear as row houses, and that a grass forestry lane is proposed as a secondary access to Phase Two for emergency vehicles only, and that two parking spaces will be provided for each unit.

Mr. Fuqua submitted a packet of information which included excerpts from the Delaware Code which reference the Housing Authority, copies of letters from Tidewater Utilities, Inc., the County Engineering Department, George Miles & Buhr, the DelDOT Support Facilities Report, a memorandum from the Sussex Conservation District, a letter from the DNREC Division of Soil and Water Conservation, excerpts from the Coastal Sussex Land Use Plan, a letter from the Division of Resource Management of the Delaware Department of Agriculture with a copy of the Land Evaluation and Site Assessment analysis, a report on the Delaware State Housing Authority, and a letter from the Mayor of the Town of Lewes.

Mr. Fuqua stated that the Conditional Use application may be restricted by the County Council and suggested some stipulations: that a buffer of two offset rows of evergreen trees be planted along the rear of the property of the type and spacing as recommended by the State Division of Forestry and that the trees will be replaced as needed and will be planted as a part of Phase One; that there will be a rear yard building restriction line of 185 feet measured from the rear property line in which no buildings shall be constructed; that at least two tot lot playgrounds and one basketball court will be constructed as a part of Phase One and two additional tot lot playgrounds as a part of Phase Two; that Phase One will contain 35 units and a community building, that Phase Two will contain 45 units bringing the total to 80 units; and that the Gosling Creek Association will be provided with the name and phone number of the site manager and a Housing Authority contact person.

Mr. Jones, Program Administrator for the Delaware State Housing Authority, and Lynn Bee described the Housing Authority functions, reported on their staff and programs, operating funds, the main roles of the Housing Authority as a Housing Finance Agency, a Code Enforcement Agency, a Community Development and Planning Agency, and a Public Housing Authority, provided income comparisons, provided information on who needs to be served and the benefit to the homeless, renters, first time homebuyers, owners of substandard housing, and special populations, and provided information of public housing programs, certificates and voucher programs, public housing policies, and community activities.

Mr. Jones advised the Commission that the Housing Authority investigated the area from Milford to Bethany, and that of the several sites investigated this site was the most appropriate due to its size, the location, and the services available in the area.

Mr. Fuqua advised the Commission that the Commission must decide if this site is appropriate for the rezoning and the multi-family use, and that the decision should be positive due to central water, central sewer, police protection availability, fire protection availability, the close proximity to medical facilities, the close proximity to shopping areas, that the site is centrally located, that long term agricultural use is not feasible, that sewer permits expansion of the density, and that multi-family use is not unreasonable since a large project exist in close proximity.

Mr. Fuqua added that the planted buffer would be appropriate, but that a berm and planted tree buffer was not practical.

Robert Witsil, Jr., Attorney on behalf of the Board of Directors of the Gosling Creek Home Owners Association, Sandra Cellurale, Evelyn C. Flynn, John Flynn, Don Roessler, Mary Grace Barbie, Eric Barbie, Harry Storck, John Barwick, Tina Michael, Michael Owens, Andrea Farrow, Glenden Jackson, Rusty Trout, Mark Ostroski, Ken Butler, Beverly Cashdollar, David Thomas, Debbie Costello, Greg Manhard, and Sally Windsor spoke in opposition to the applications and expressed concerns relating to increases in density, that lot owners within Gosling Creek purchased their lots with the understanding that the subdivision is located in an agricultural area, that the application does not conform to the Coastal Sussex Land Use Plan which depicts the site in an agricultural area where soils are Prime, that the site is adjacent to active farmland, thereby increasing development pressure on the farmland, that development of the parcel should not take place without adequate safeguards, that the site is

located in an area of low intensity, that public sewer does not presently exist on the site and should not be considered as a factor in rezoning, that preserving farmland in Coastal Sussex is an economic, historic, and aesthetic goal, that making agribusiness profitable over the long term is part of the permanent solution to farmland preservation, that pinpointing the most productive and prime agricultural lands is a first step in agricultural planning, that maintaining farms in large blocks is a key to preserving farmland, that farmland faces increasing pressures from development, high operation costs, and temptation to sell land, that spotty development multiplies the problem by causing impacts greater than numbers might indicate when small development areas occur near a farm without proper organization and buffering, that complaints from farmers about traffic and safety and complaints from new residents about smell and noise cause conflicts that through proper planning need not occur, that pressure for development is so great and farmers in general are experiencing difficulties in maintaining economic viability, many farms or portions of farms are being sold for non farm uses which has resulted in scattered development within farming areas, that it is often the case that farmers and non-farming neighbors do not make good neighbors, that many farming operations result in impacts that residents consider nuisances, that land use decisions should not be made without thought to effects on the agricultural community, that active agricultural lands should remain in agriculture, that the rezoning doubles the density and is not appropriate for the area, that the average occupancy of the units may be five occupants which equals a potential of 400 residents on the site, that the project may jeopardize area residents, cause a decline in property values and create an impact on police protection, that the Coastal Sussex Land Use Plan provides no advise on low cost affordable housing for the area and no guidance for considering this application, that the DelDOT comments are related to 1984 traffic counts which are not appropriate for consideration due to increases in traffic on Road 285, that references to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District will require special legislation by the Sussex County Council for inclusion of the project, that residents of Gosling Creek Development are concerned about the misuse of farmland, increases in density, traffic safety at Five Points, lack of services close to the proposed project, impacts on property values, lack of public transportation to serve the proposed project since schools, public playgrounds, medical facilities, and shopping areas are at least 1.5 miles from the site, that no shoulders or sidewalks exist along Road 285 creating safety problems for pedestrians, that lots were purchased due to the large lots in the agricultural area away from multi-family uses with greater densities, that more traffic will be generated from the project since the site proposes no

convenience store, that traffic increases will be generated from the project onto Route One, Road 285, Road 275, and Route 9, that the creation of higher density encourages more applications for higher density and may establish a precedent for approvals of more rezonings, that area residents have concerns about traffic, traffic safety, and accidents at Five Points, that plans for Five Points intersection improvements provide no designs for pedestrian traffic, that for comparison traffic counts at the intersection of Route One and Route 16 have increased 16 percent since 1984 and that traffic counts at the intersection of Route One and Route 24 have increased 25 percent since 1984, that the soils on the site have not been flooded even with all the rains accumulated over the last few months, that children's safety should be a major concern around farmland and farm machinery, that multi-family projects provide minimal play area for children and some children will wander into fields to play, that concerns were expressed relating to increases in crime rates, that during the DelDOT presentations on the East/West Corridor Study comments were made by DelDOT representatives that negative impacts could be established on the historical area in Belltown, that residents in the project will need jobs in this area, where wages are at the minimum and employment is seasonal, and will then require unemployment benefits, that the Housing Authority operates 70 percent of its units in Sussex County within this general area and should relocate to other areas of Sussex County to create a balance spread for their units, and requested that the application be denied.

Seventy-nine (79) people were present in opposition.

Michael C. Miller, a resident of Jimtown and a landowner of a lot in Belltown, spoke in support of the application and advised the Commission that the residents of Belltown are not opposed to the application, that approximately 100 children live in the Belltown area and that there are no records of any traffic accidents within the Belltown area involving children, that the residents of Gosling Creek have access to Road 277, not Road 285, and should not be impacted by traffic, that the realignment of Road 285 runs directly into Road 275 rather than Five Points eliminating an intersection problem, that farmland in the area is for sale and will be developed, that residents in the project will be travelling the same roads necessary for the residents of Gosling Creek to get to areas of schools, shopping, play areas, and medical facilities, and that this project should not bring a higher level of crime into the area due to the close proximity of the site to State Police Troop 7 on Route One.

Mr. Fuqua advised the Commission that if the oppositions reasons are appropriate, then affordable housing may never be

created in Sussex County, that the site is proposed to serve residents of the Cape Henlopen School District, that the tenants are residents of poor housing and hope to improve their living conditions, that the Gosling Creek Development and Morning View Development, both subdivisions, and The Plantations, a residential planned community, are not located in a Development District, that the Coastal Sussex Land Use Plan is not a law, only a guide, and provides for flexibility, that if the soil type was on a farm in the western portion of the County the land would continue to be farmed, but not in the Five Points area where development pressure continues, that farmers in the area are selling land, that sewer availability will cause additional development pressure, that the County Engineering Department has advised that expansion of the Sewer District can be accomplished, that the residents of the project are going to travel the same as other residents in the area, that the land use is appropriate, that the project will not increase enrollment in the Cape Henlopen School district since the residents already live in the District, that this project will not generate any traffic impact on the Gosling Creek Development which has access to Road 277, that with public sewer the rezoning to MR Medium Density Residential is feasible and will blend with the density of Jimtown and Belltown, that no negative impact should be generated on the areas used by Sussex County residents, and questioning why the area should permit a 600 unit project, The Plantations, for second homes, and not a 80 unit project for affordable housing.

At the conclusion of the public hearings, the 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 a traffic impact study was not recommended and that the level of service "A" of Route 285 will not change as a result of this application.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Fish and Wildlife, the DNREC Division of Parks and Recreation, the DNREC Division of Water Resources Watershed Assessment Branch, Water Supply Branch, Pollution Control Branch, Underground Discharges Branch, and Wetlands and Aquatic Protection Branch, the Department of Agriculture, the Delaware State Historic Preservation Office, the Delaware Health & Social Services Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, State Police Headquarters Communications, and the Sussex

Conservation District.

The Commission found, based on comments received from the County Engineering Department, that the site is located in a restrictive area outlined in a Memorandum of Understanding (MOU) between the State DNREC and the Sussex County Council, dated April 4, 1990; that by the MOU, the County agreed to restrict any rezoning or conditional use to parcels to be connected to a County operated sanitary sewer system; that the Housing Authority is seeking sewer service through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that it is proposed that service be provided through a contractual agreement; and that if service is provided, the Housing Authority will be responsible for constructing the necessary sewer infrastructure and by paying all appropriate fees.

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 it may be necessary for some on-site drainage improvements, that the soils are mapped as Sassafras sandy loam which has slight limitations for the intended use, 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 considered Prime.

The Commission found, based on comments received from the DNREC Division of Fish and Wildlife, that the Division has no comment with respect to this project.

The Commission found, based on comments received from the DNREC Division of Water Resources Underground Discharges Branch, that since wastewater disposal is proposed to via central sewer from Sussex County the Branch has no comment.

The Commission found, based on comments received from the Delaware Health and Social Services Division of Public Health, that if the project will be tying into an existing public water supply the Division of Public Health has no comment and that if central water is to be designed and built as a part of the project then plans must be submitted to the Division.

The Commission found, based on comments received from the Delaware Department of Agriculture Division of Resource Management, that the application was analyzed using the Sussex County Land Evaluation and Site Assessment (LESA) system, that the LESA score totaled 169 out of 300 points, which is below average for Sussex County and suggest that agriculture is one of

several land uses in the area, that the Land Evaluation score totaled 91 out of 100 points due to the abundance of high quality Sassafras soils on site, that the Coastal Sussex Land Use Plan identifies the area as prime agricultural land, that the Site Assessment score totaled 78 out of 200 points which reflected the low agricultural investment on the parcel, the proximity of sewer services and mixed land uses due to increasing development throughout the area, that the project is adjacent to over 200 acres of farmland, that the Division is concerned that a rezoning will place severe development pressure on the farm between the site and Road 275, that the Division hopes that the County's enforcement of buffer requirements and agricultural use protections will allow adjacent operations to continue conflict-free in the event that this application is approved, that it is understood that the Housing Authority may be paying to expedite the expansion of sewer service, that the Division agrees that development should pay for services, that the Division cautions the County to beware of the dangers in allowing prepaid development to occur in areas that were not designated for such land uses, that the issue becomes more critical when considering the substantial amount of farming that exists west of the site, that the Division regrets the loss of any agricultural lands, that the Division has no major objections to the rezoning, that the Division would rather see proposals for development of parcels in transitional areas where infrastructure is found to be adequate as opposed to development where improvements and/or extensions to public services are required, that the projects proximity to Five Points and various sewer and highway improvements it can be argued that it is a transitional site, that long term farming for this area is questionable, and questioning if this application is approved, can development and the demand for future services be contained within this area alone to avoid infringing upon other farming operations.

The Commission found, based on comments received from the DNREC Division of Water Resources Pollution Control Branch, that the Branch has no objections provided that the proposed zoning change is compatible with neighboring land uses.

The Commission found, based on a letter received from Tidewater Utilities, Inc., that the company is willing and able to provide central public water utility service to the project, that the area is within the company's certified territory, that all individual dwellings will be metered and served by a separate service, that the water supplied will be provided from the company's existing central public system, that the existing system is capable of providing a sustained fire protection flow of 500 gallons per minute at 20 pounds residual pressure, and that if the Fire Marshal should require a fire flow of 750

gallons per minute, the company will require an on-site well location.

The Commission found, based on comments received from the DNREC Division of Water Resources Water Supply Branch, that the Branch has no objections to this proposed rezoning, and that it has been determined that this site is located in the water utility area granted to Tidewater Utilities.

The Commission found that the application was represented by four staff members from the Delaware State Housing Authority, an Architect, and an Attorney who advised the Commission that the application was being presented with two references, a rezoning to MR Medium Density Residential and a Conditional Use for 80 multi-family units, that the rezoning is necessary to permit the units, that it will be necessary for the Commission to make a major land use decision, that traditionally the Housing Authority draws a lot of opposition, that this application will include two phases of development with the first phase containing 35 units and a community building and the second phase containing 45 units, that the units will be built for the Housing Authority, a State agency, to provide affordable housing, that the Housing Authority has established a need for housing assistance in this area and has chosen this site as the most appropriate site for the use, that the project will conform to the unit density of four (4) units per acre permitted in a MR Medium Density Residential District, that Tidewater Utilities, Inc. is willing and able to provide central public water utility service for the project, that the County Engineering Department can provide sewer service to the project through a contract with the County Council since the Housing Authority is a Governmental agency, that all cost of the sanitary sewer will be assumed by the Housing Authority, that one entrance is proposed off of Road 285, that the DelDOT report indicates no impact on traffic, that the site is in close proximity to major roads, that shopping areas are in close proximity along Route One, that fire protection will be provided by the Lewes Fire Department, that police protection will be provided by the Delaware State Police, that environmentally there should be no negative impacts since there are no wetlands on the site, since central water and sewer are to be provided, since no storm flood hazard areas are impacted, since there are no tax ditches affected, that medical facilities are in close proximity, that viable economic opportunities exist in the area, that the site is located in the Cape Henlopen School District, that the nature of development in the general area is mixed residential/agricultural/commercial, that the use conforms to the Coastal Sussex Land Use Plan since: a goal of the Plan is to protect the environment while providing adequate housing, a stable economy and employment opportunities; that even though the

site is not in the Coastal Conservation Zone it will be served by central sewer and water; that the site and area is unlikely to remain as agricultural due to the location; that the site is logically to be located in the Development Zone where development is intended, that the mapped development zone was based on existing development patterns and sewer districts, that the site has residential subdivision adjacent and will be served by a Sewer District; that the project will conform to the projected growth rates; that multi-family dwellings would only be permitted where central water and sewer systems are provided; that new planning concepts and innovative techniques for residential dwellings are encouraged; and that the housing is needed to accomodate the projected increases in the year round population of Coastal Sussex; and that the Department of Agriculture stated no major objections in their comments, that a minimum buffer width of 70 feet will be provided along the sides and rear of the site, that a minimum setback of 185 feet will be provided from the Gosling Creek property line to the nearest buidling, that a minimum setback of 285 feet will be provided from Road 285 to the nearest building, that the entrance drive in Phase One will not have any units directly fronting the drive, that recreational areas and tot lots will be provided and maintained, that a storm water retention area will be provided on the site, that the first phase will include 35 units within 8 buildings, that the maximum number of units per building will be eight, that the buildings are one and two story frame construction with vinyl siding designed in character with the newer housing in the area, that the buildings are not designed to appear as row houses, and that a grass forestry lane is proposed as a secondary access to Phase Two for emergency vehicles only, and that two parking spaces will be provided for each unit.

The Commission found that the attorney submitted a packet of information which included excerpts from the Delaware Code which reference the Housing Authority, copies of letters from Tidewater Utilities, Inc., the County Engineering Department, George Miles & Buhr, the DelDOT Support Facilities Report, a memorandum from the Sussex Conservation District, a letter from the DNREC Division of Soil and Water Conservation, excerpts from the Coastal Sussex Land Use Plan, a letter from the Division of Resource Management of the Delaware Department of Agricultrue with a copy of the Land Evaluation and Site Assessment analysis, a report on the Delaware State Housing Authority, and a letter from the Mayor of the Town of Lewes.

The Commission found that the attorney on behalf of the application stated that the Conditional Use application may be restricted by the County Council and suggested some stipulations: that a buffer of two offset rows of evergreen trees be planted along the rear of the property of the type and spacing as

recommended by the State Division of Forestry and that the trees will be replaced as needed and will be planted as a part of Phase One; that there will be a rear yard building restriction line of 185 feet measured from the rear property line in which no buildings shall be constructed; that at least two tot lot playgrounds and one basketball court will be constructed as a part of Phase One and two additional tot lot playgrounds as a part of Phase Two; that Phase One will contain 35 units and a community building, and that Phase Two will contain 45 units bringing the total to 80 units; and that the Gosling Creek Association be provided with the name and phone number of the site manager and a Housing Authority contact person.

The Commission found that the Program Administrator for the Delaware State Housing Authority and another staff member described the Housing Authority functions, reported on their staff and programs, operating funds, the main roles of the Housing Authority as a Housing Finance Agency, a Code Enforcement Agency, a Community Development and Planning Agency, and a Public Housing Authority, provided income comparisons, provided information on who needs to be served and the benefit to the homeless, renters, first time homebuyers, owners of substandard housing, and special populations, and provided information of public housing programs, certificates and voucher programs, public housing policies, and community activities, that the Housing Authority investigated the area from Milford to Bethany, and that, of the several sites investigated this site was the most appropriate due to its size, the location, and the services available in the area.

The Commission found that the attorney on behalf of the application advised them that the Commission must decide if this site is appropriate for the rezoning and the multi-family use, and that the decision should be positive due to central water, central sewer, police protection availability, fire protection availability, the close proximity to medical facilities, the close proximity to shopping areas, that the site is centrally located, that long term agricultural use is not feasible, that sewer permits expansion of the density, and that multi-family use is not unreasonable since a large project exist in close proximity, and that the planted buffer was an appropriate screening, but that a berm and planted buffer was not practical.

The Commission found that 21 people, of the 79 people present, spoke in opposition to the applications and expressed concerns relating to increases in density, that lot owners within Gosling Creek purchased their lots with the understanding that the subdivision is located in an agricultural area, that the application does not conform to the Coastal Sussex Land Use Plan which depicts the site in an agricultural area where soils are

Prime, that the site is adjacent to active farmland, thereby increasing development pressure on the farmland, that development of the parcel should not take place without adequate safeguards, that the site is located in an area of low intensity, that public sewer does not presently exist on the site and should not be considered as a factor in rezoning, that preserving farmland in Coastal Sussex is an economic, historic, and aesthetic goal, that making agribusiness profitable over the long term is part of the permanent solution to farmland preservation, that pinpointing the most productive and prime agricultural lands is a first step in agricultural planning, that maintaining farms in large blocks is a key to preserving farmland, that farmland faces increasing pressures from development, high operation costs, and temptation to sell land, that spotty development multiplies the problem by causing impacts greater than numbers might indicate when small development areas occur near a farm without proper organization and buffering, that complaints from farmers about traffic and safety and complaints from new residents about smell and noise cause conflicts that through proper planning need not occur, that pressure for development is so great and farmers in general are experiencing difficulties in maintaining economic viability, many farms or portions of farms are being sold for non farm uses which has resulted in scattered development within farming areas, that it is often the case that farmers and non-farming neighbors do not make good neighbors, that many farming operations result in impacts that residents consider nuisances, that land use decisions should not be made without thought to effects on the agricultural community, that active agricultural lands should remain in agriculture, that the rezoning doubles the density and is not appropriate for the area, that the average occupancy of the units may be five occupants which equals a potential of 400 residents on the site, that the project may jeopardize area residents, cause a decline in property values and create an impact on police protection, that the Coastal Sussex Land Use Plan provides no advise on low cost affordable housing for the area and no guidance for considering this application, that the DelDOT comments are related to 1984 traffic counts which are not appropriate for consideration due to increases in traffic on Road 285, that references to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District will require special legislation by the Sussex County Council for inclusion of the project, that residents of Gosling Creek Development are concerned about the misuse of farmland, increases in density, traffic safety at Five Points, lack of services close to the proposed project, impacts on property values, lack of public transportation to serve the proposed project since schools, public playgrounds, medical facilities, and shopping areas are at least 1.5 miles from the site, that no shoulders or sidewalks exist along Road 285 creating safety problems for pedestrians, that lots were

purchased due to the large lots in the agricultural area away from multi-family uses with greater densities, that more traffic will be generated from the project since the site proposes no convenience store, that traffic increases will be generated from the project onto Route One, Road 285, Road 275, and Route 9, that the creation of higher density encourages more applications for higher density and may establish a precedent for approvals of more rezonings, that area residents have concerns about traffic, traffic safety, and accidents at Five Points, that plans for Five Points intersection improvements provide no designs for pedestrian traffic, that traffic counts at the intersection of Route One and Route 16 have increased 16 percent since 1984, that traffic counts at the intersection of Route One and Route 24 have increased 25 percent since 1984, that the soils on the site have not been flooded even with all the rains accumulated over the last few months, that children's safety should be a major concern around farmland and farm machinery, that multi-family projects provide minimal play area for children and some children will wander into fields to play, that concerns were expressed relating to increases in crime rates, that during the DelDOT presentations on the East/West Corridor Study comments were made by DelDOT representatives that negative impacts could be established on the historical area in Belltown, that residents in the project will need jobs in this area, where wages are at the minimum and employment is seasonal, and will then require unemployment benefits, that the Housing Authority operates 70 percent of its units in Sussex County within this general area and should relocate to other areas of Sussex County to create a balance spread for their units, and requested that the application be denied.

The Commission found that a resident of Jimtown, who also owned a lot in Belltown, spoke in support of the application and advised the Commission that the residents of Belltown are not opposed to the application, that approximately 100 children live in the Belltown area and that there are no records of any traffic accidents within the Belltown area involving children, that the residents of Gosling Creek have access to Road 277, not Road 285, and should not be impacted by traffic, that the realignment of Road 285 runs directly into Road 275 rather than Five Points eliminating an intersection problem, that farmland in the area is for sale and will be developed, that residents in the project will be travelling the same roads necessary for the residents of Gosling Creek to get to areas of schools, shopping, play areas, and medical facilities, and that this project should not bring a higher level of crime into the area due to the close proximity of the site to State Police Troop 7 on Route One.

The Commission found that the Attorney on behalf of the application suggested that if the oppositions reasons are appropriate, then affordable housing may never be created in Sussex County, that the site is proposed to serve residents of the Cape Henlopen School District, that the tenants are residents of poor housing and hope to improve their living conditions, that the Gosling Creek Development and Morning View Development, both subdivisions, and The Plantations, a residential planned community, are not located in a Development District, that the Coastal Sussex Land Use Plan is not a law, only a guide, and provides for flexibility, that if the soil type was on a farm in the western portion of the County the land would continue to be farmed, but not in the Five Points area where development pressure continues, that farmers in the area are selling land, that sewer availability will cause additional development pressure, that the County Engineering Department has advised that expansion of the Sewer District can be accomplished, that the residents of the project are going to travel the same as other residents in the area, that the land use is appropriate, that the project will not increase enrollment in the Cape Henlopen School district since the residents already live in the District, that this project will not generate any traffic impact on the Gosling Creek Development which has access to Road 277, that with public sewer the rezoning to MR Medium Density Residential is feasible and will blend with the density of Jimtown and Belltown, that no negative impact should be generated on the areas used by Sussex County residents, and questioning why the area should permit a 600 unit project, The Plantations, for second homes, and not a 80 unit project for affordable housing.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to defer action to afford the Commission the opportunity to review the information presented at the public hearing.

3. RE: C/U #1072--Delaware State Housing Authority

Jerry Jones, Correine Todd-Grieve, Lynn Bee, and Cathy Gregory of the Delaware State Housing Authority, Benjamin Kitchen, Architect, and James Fuqua, Attorney, were present on behalf of this application to consider the Conditional Use of land in an MR Medium Density Residential District in Lewes and Rehoboth Hundred for Multi-Family Dwelling Structures for 80 Units and a Community Building lying on the southeast side of Road 285, 0.4 mile southwest of Road 275 at Five Points to be located on a parcel containing 19.53 acres more or less.

Mr. Lank advised the Commission that all correspondences received on this application were read into the record for the application of C/Z #1224 and asked that the correspondence be made a part of the record for this application, C/U #1072.

Mr. Fuqua, representing the Applicant, requested that all documentation and presentations made on behalf of the application for C/Z #1224 be made a part of the record for this application, C/U #1072.

Mr. Witsil, representing the Board of Directors of the Gosling Creek Home Owners Association, requested that all documentation and presentations made on behalf of the opposition to C/Z #1224 be made a part of the record for this application, C/U #1072.

Mr. Schrader advised the Commission that all correspondence, all documentation and presentations made by representatives of the application and in opposition to the application on C/Z #1224 will be made a part of the record for this application, C/U #1072.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to defer action to afford the Commission the opportunity to review the information presented at the public hearing.

III. OTHER BUSINESS

1. RE: Bethany Marina Townhouses

The Commission reviewed a site plan for 89 multi family units near Whites Creek.

Mr. Abbott advised the Commission that this is the second phase, that the site plan meets the requirements of the Zoning Code and that if the Commission is favorable towards the site plan only preliminary approval should be considered since the staff has not received any agency approvals.

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

2. RE: C/U #1066--Fun Sport Inc.

The Commission reviewed the site plan for three go cart tracks on Route One near Midway.

Mr. Abbott advised the Commission that the site plan is the same as submitted during the public hearing, that all of the stipulations are listed on the plan, and that all required agency approvals have been received.

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

3. RE: Thomas Eugene Womach

The Commission discussed a strip development for thirty seven lots on Routes 434, 434A, and 472.

Mr. Lank advised the Commission that some lots measure approximately 150' x 1700' and questioned if there is a certain number of lots that the Commission feels appropriate for the staff to consider when approving strip types of subdivision.

It was the consensus of the Commission that these types of development are undesirable and that the County Council should look into some type of Ordinance concerning strip developments.

4. RE: Remus Gibbs

The Commission reviewed a concept to resubdivide 9 lots and a twenty five foot right of way off of Route 525.

Eugene Gibbs was present on behalf of the request.

Mr. Lank advised the Commission that the lots were originally created by deeds, that there is an existing twenty five foot road, that 7 lots would have access from the road and that 2 lots would have access from Route 525

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision concept.

5. RE: The Island Farm, Inc.

The Commission reviewed a concept to create a 3 acre parcel with access from a 50' right of way off of Route 257.

Mr. Abbott advised the Commission that there is an existing 10 foot recorded ingress and egress and that the owner wants to widen the lane to fifty feet and create a 3 acre parcel.

Motion made by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to approve the parcel and fifty foot right of way as submitted.

6. RE: Zacharias Cove

Mike Lynn, developer, and Joe Conaway, Realtor, were present as the Commission reviewed the recreation areas and relocation of 2 lots in Zacharias Cove subdivision on Route One near Bethany.

Mr. Lynn advised the Commission that the recreation area will have a pool, bath house and tennis courts, that they are going to revise a lot so that they can put in boat slips for the individual owners, and that two lots will be relocated to an existing open space area.

Mr. Abbott advised the Commission that the relocation of the 2 lots will require a variance from the Board of Adjustment for the lot depth requirement.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the recreation areas in concept.

IV. OLD BUSINESS

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

No one was present on behalf of the application of Ronald B. Pevey and Linda Tower Pevey 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.

Mrs. Monaco stated that she had revisited the site, reviewed the minutes and listened to the tape recording of the public hearings and would like to participate in the decision.

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

Mrs. Monaco stated that there is a need for this type of operation in the westerly areas of Sussex County.

Mr. Ralph stated that a tract of 70 acres is not necessary to operate a landing strip and suggested that a perimeter of 75 feet be established along the southerly side of the strip, thereby creating an area 275 feet wide running the length of the property and including the area where the house, garage, and hangar

building are located.

Motion by Mrs. Monaco, 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 use is needed to serve agribusiness in the westerly portion of Sussex County, and with the following stipulations:

1. The owner shall obtain such approvals from the F.A.A. as are required prior to commencement of the use.
2. The use shall be limited to a private VFR daylight landing strip for aerial spraying and the personal use of the owner.
3. There shall be no more than three aircraft on site at any time.
4. Fuel may only be utilized for the spraying operation or personal use of the owner.
5. Only maintenance of the owners aircraft shall be permitted.
6. Chemical storage, preparation and washing of aircraft shall comply with the regulations of EPA, the Department of Agriculture, the State DNREC, and Office of the State Fire Marshal, including 40 CFR, Part 165 when implemented. The owner shall construct a pesticide containment structure (rinse pad) in accordance with standards contained in 40 CFR, Part 165, Standards for Pesticide Containers and Containment.
7. No aerial advertising or banner operations shall be permitted.
8. The area to be considered for the Conditional Use shall be reduced to an area including the lot containing the dwelling house, garage, and hangar building, and an area 275 feet wide along the northerly portion of the acreage.
9. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Meeting adjourned at 11:50 P.M.