

MINUTES OF THE REGULAR MEETING OF APRIL 25, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 25, 1996, at 7:30 PM, in the Court of Common Pleas, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director. Joel Leidy, ex-officio member, representing the Secretary of Transportation was also present.

Motion made by Mr. Lynch, second by Mr. Phillips, and carried unanimously to approve the minutes of April 11, 1996, as circulated.

Mr. Schrader explained how the Public Hearings and agenda items are conducted.

II. OTHER BUSINESS

1. RE: C/U #1155--Lake Ventures, L.L.C.

James Kearnen and John Sergovic, 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 a Six (6) Unit Multi-Family Dwelling Structure on the west side of Lake Drive (Road 50), approximately 800 feet south of Robinson Drive, and north of Pine Lane, located on a parcel containing 1.31 acres more or less.

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

Mr. Sergovic asked the Commission for a two minute break at the end of the presentation on behalf of the application so that he could consult with the attorney on behalf of the opposition.

There was a consensus of the Commission that they had no objection to the requested break.

Mr. Sergovic stated that the Commission has seen a similar application for seven units last year and that the Commission recommended approval, that the County Council, after public hearing, voted 2-1 which causes denial of the application for lack of a majority of the Council and that the applicants have purchased the site.

Mr. Sergovic submitted a three page report on the application's compliance with the Coastal Sussex Land Use Plan (applicant's exhibit #1).

Mr. Sergovic continued by stating that previous applications included the entire parcel, that the amended version does not include the triangular parcel adjoining James A. Street, that the excluded lot will be utilized for a single family dwelling, that the existing improvements on the site and the overgrown landscaping should provide a greater view of the Silver Lake for the adjoining landowners.

Mr. Kearnen stated that they purchased the site to apply for six (6) units, that they propose to decrease the height of one side of the structure, that they have tried to respond to the original opposition in preparing their building plans, that he is in the real estate business and that six recent sales serve single units with elevator access, and that he anticipates second home and owner occupied unit sales in the \$375,000 to \$475,000 range.

Mr. Kearnen submitted and described 19 photographs of the site and the general area along Lake Drive (applicant's exhibit #2).

Mr. Kearnen continued by stating that the main entrance will be from Lake Drive, that a secondary entrance may be from Pine Lane, that the overall footprint of the building will be the same as the original, that the roof design and portions of the height of the building are being amended, and that all units are proposed to be four (4) bedroom units with three (3) to three and a half (3 1/2) baths.

Mr. Sergovic continued by stating that the density will be six (6) units per acre in the area between Lake Drive and the triangular lot which is not a significant change in density.

Robert Riekel of Coast Survey, Inc. stated that his firm prepared the site plan, submitted and discussed a general area map showing homes (applicant's exhibit #3), submitted and discussed a survey location of the proposed building which related to adjacent buildings and depicted the view of the adjacent land owners after construction of the building (applicant's exhibit #4), submitted and discussed a drawing of the site with four (4) typical improved house lots depicting the view of the adjacent land owners to the north (applicant's exhibit #5), and submitted and depicted a drawing of the site with a six (6) unit townhome designed building depicting the view of the adjacent land owners to the north (applicant's exhibit #6).

Donald Bowen, Architect, stated that he designed building, and submitted a site plan and building elevation drawing (applicant's exhibit #7), the original site plan and building elevation drawing for the seven (7) unit building (applicant's exhibit #8), and a black and white drawing of the elevation of the building depicting the changes in the roof lines and height (applicant's exhibit #9), and stated that they have proposed three (3) living floors above the garage parking level, three (3) units on the first floor, two (2) units on the second floor, and a penthouse on the third floor, that the elevator access is to the rear of the building, that the units have been turned southeasterly to maximize the view across Silver Lake, that a metal hip roof is proposed, that all parking is proposed under the building, that stained wood siding and masonry is proposed, that the height of the roof has been reduced approximately 5 feet, and that the ridge of the roof has been reduced approximately 9 feet.

Diane Stacey, a Realtor with Caldwell Banker, stated that the general housing market has shown a demand for buyers looking for low maintenance units in up-scale projects with several thousand square feet apartment type units, that the marketed price range appeared to be in the mid \$300,000 and up range, and that the purchasers appear to plan for owner occupancy, not rentals.

Mr. Sergovic submitted four (4) letter of support from residents living along Lake Drive (applicant's exhibits #10, #11, #12, and #13).

Harold Carmean, a certified appraiser, submitted a small tax map depicting the site and some surrounding land uses (applicant's exhibit #14, an aerial photograph of the area (applicant's exhibit #15), a chart and map referencing lot coverage ratios (applicant's exhibit #16), a chart and map referencing competitive multi-family projects (applicant's exhibit #17), and a chart referencing density analysis for competitive multi-family projects (applicant's exhibit #18), and stated that the site plan appears to provide a lot of open space and character, that the lot coverage conforms to the market, that the density is lower than some existing multi-family uses in the area, that the project conforms to the neighborhood, that it is his professional opinion that there should be no negative impact on the neighborhood, and that the project should have a positive impact on the neighborhood.

Mr. Sergovic submitted a proposed findings of fact on behalf of the applicants.

William D. Emmert stated that he supports the application.

A short break was taken to allow the applicant's attorney and the opposition's attorney to discuss the presentation.

Werner G. Puppa spoke in opposition and expressed concerns that 100 single family homes exist in the immediate area, that the four (4) unit multi-family building referenced by the applicant was built to replace five (5) single family homes, that the proposal is out of character with the neighborhood, that the exterior dimensions of the building have not changed, that the six (6) units will increase traffic, pollution, noise, and cause traffic safety risk for children in the area, that the building will block his view and the free flow of air, that there are no unusual circumstances that do not allow construction of single family homes on the site, that the lot has been overgrown for approximately 30 years, that the existing structure on the site is an eyesore, and that the use will be inconsistent with the neighborhood.

Robert Witsil, attorney representing James DeOrta, stated that the original applicant is still involved with this application, that the application was refiled prior to the one year requirement after denial, that the only change in the application is one less unit and requested the Commission to consider if the application was in compliance with the one year requirement, referenced findings established by Councilman Collins in the original application, referenced findings established by the opposition in the original application, referenced findings established by Councilman Cole in the original application, and submitted a packet containing copies of the July 11, 1995 County Council Minutes and findings, a letter in opposition from R.R.M. Carpenter, III, a letter of opposition from W. Laird Stabler, Jr. Esq., a copy of a 1932 deed to the property with setback restrictions, a copy of a 1980 deed to the property referring to the record plot for Silver Lake Shores, a copy of the record plot, and a copy of two (2) reduced tax maps for the area.

James DeOrta spoke in opposition and referenced that he has a second home on the adjacent property since 1994, that he paid approximately \$385,000 for the property and home, that he has spent additional funds for landscaping, driveways, heat, air, and electrical upgrading, that no effort has been made to cleanup the site, that his view after construction of the proposed building will be two 80 foot walls with an elevator tower, that the use will be a detriment to the neighborhood, that parking and driveways will impact his home, that the suggestion of a flow through driveway from Pine Lane to Lake Drive may create additional traffic, that the curve of Lake Drive may have some visual obstructions, and that values of neighboring homes will be negatively impacted.

Mr. DeOrta submitted and described a small aerial photograph of the area, and photographs looking north and south from the site.

Tom Ford, a Registered Landscape Architect, stated that he has reviewed the site plan for the original application and this application and finds that the only difference that he could find was a one (1) unit reduction, that the lot coverage comparison does not compare existing density of the area, that the multi-family units on Lake Comegy do not inter-relate to Lake Drive, that the existing density on Lake Drive, excluding the existing four (4) unit multi-family building, equals approximately one dwelling unit per 23,000 square feet, that the proposed density of the application equals approximately one (1) dwelling unit per 7,500 square feet, that the proposed use is out of character with the community and is oversized in density, and that the highest and best use of the site is single family development.

Mr. Witsil read the purpose of the MR Medium Density Residential District.

John Metzler, a resident on Pine Lane, stated that the unit over his garage is a quest house with no kitchen, and that it is not a rental unit.

Annalee Svenson, a resident on Pine Lane, stated that Pine Lane is gravel, not paved, and expressed a concern about stormwater runoff.

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 the County Engineering Department, that the site is located in the Dewey Beach Water and Sanitary Sewer Districts, that connection permits must be obtained and connection charges will be required, that adequate sewer and water capacity is available to serve the number of units proposed, that minor improvements may be needed to connect to the systems, and that there will be connections charges due for the increase in the EDU assessment of the property due to the new construction.

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 on-site or off-site drainage improvements, that the soils on the site are mapped as Sassafras sandy loam which has slight

limitations, that the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of construction, and that the farmland rating of the soil type is considered Prime Farmland.

The Commission found that the application was represented by one of the owners and an attorney and that the attorney stated that the Commission had reviewed a similar application for seven units last year and recommended approval, that the County Council, after public hearing, voted 2-2 which causes denial of the application for lack of a majority of the Council and that the applicants have purchased the site.

The Commission found that the attorney submitted a three page report on the application's compliance with the Coastal Sussex Land Use Plan (applicant's exhibit #1).

The Commission found that the attorney continued by stating that previous applications included the entire parcel, that the amended version does not include the triangular parcel adjoining James A. Street, that the excluded lot will be utilized for a single family dwelling, that the existing improvements on the site and the overgrown landscaping should provide a greater view of the Silver Lake for the adjoining landowners.

The Commission found that the owner stated that they purchased the site to apply for six (6) units, that they propose to decrease the height of one side of the structure, that they have tried to respond to the original opposition in preparing their building plans, that he is in the real estate business and that six recent sales serve single units with elevator access, and that he anticipates second home and owner occupied unit sales in the \$375,000 to \$475,000 range.

The Commission found that the owner submitted and described 19 photographs of the site and the general area along Lake Drive (applicant's exhibit #2).

The Commission found that the owner continued by stating that the main entrance will be from Lake Drive, that a secondary entrance may be from Pine Lane, that the overall footprint of the building will be the same as the original, that the roof design and portions of the height of the building are being amended, and that all units are proposed to be four (4) bedroom units with three (3) to three and a half (3 1/2) baths.

The Commission found that the attorney continued by stating that the density will be six (6) units per acre in the area between Lake Drive and the triangular lot which is not a significant change in density.

The Commission found that a representative of a surveying firm stated that his firm prepared the site plan, submitted and discussed a general area map showing homes (applicant's exhibit #3), submitted and discussed a survey location of the proposed building which related to adjacent buildings and depicted the view of the adjacent land owners after construction of the building (applicant's exhibit #4), submitted and discussed a drawing of the site with four (4) typical improved house lots depicting the view of the adjacent land owners to the north (applicant's exhibit #5), and submitted and depicted a drawing of the site with a six (6) unit townhome designed building depicting the view of the adjacent land owners to the north (applicant's exhibit #6).

The Commission found that the architect who prepared the building plans submitted a site plan and building elevation drawing (applicant's exhibit #7), the original site plan and building elevation drawing for the seven (7) unit building (applicant's exhibit #8), and a black and white drawing of the elevation of the building depicting the changes in the roof lines and height (applicant's exhibit #9), and stated that they have proposed three (3) living floors above the garage parking level, three (3) units on the first floor, two (2) units on the second floor, and a penthouse on the third floor, that the elevator access is to the rear of the building, that the units have been turned southeasterly to maximize the view across Silver Lake, that a metal hip roof is proposed, that all parking is proposed under the building, that stained wood siding and masonry is proposed, that the height of the roof has been reduced approximately 5 feet, and that the ridge of the roof has been reduced approximately 9 feet.

The Commission found that a Realtor stated that the general housing market has shown a demand for buyers looking for low maintenance units in up-scale projects with several thousand square feet apartment type units, that the marketed price range appeared to be in the mid \$300,000 and up range, and that the purchasers appear to plan for owner occupancy, not rentals.

The Commission found that the attorney submitted four (4) letter of support from residents living along Lake Drive (applicant's exhibits #10, #11, #12, and #13).

The Commission found that a certified appraiser submitted a small tax map depicting the site and some surrounding land uses (applicant's exhibit #14, an aerial photograph of the area (applicant's exhibit #15), a chart and map referencing lot coverage ratios (applicant's exhibit #16), a chart and map referencing competitive multi-family projects (applicant's exhibit #17), and a chart referencing density analysis for competitive multi-family projects (applicant's exhibit #18), and stated that the site plan appears to provide a lot of open space and character, that the lot coverage conforms to the market, that the density is lower than some existing multi-family uses in the area, that the project conforms to the neighborhood, that it is his professional opinion that there should be no negative impact on the neighborhood, and that the project should have a positive impact on the neighborhood.

The Commission found that the attorney submitted a four (4) page set of findings of fact on behalf of the applicants.

The Commission found that an area resident spoke in opposition and expressed concerns that 100 single family homes exist in the immediate area, that the four (4) unit multi-family building referenced by the applicant was built to replace five (5) single family homes, that the proposal is out of character with the neighborhood, that the exterior dimensions of the building have not changed, that the six (6) units will increase traffic, pollution, noise, and cause traffic safety risk for children in the area, that the building will block his view and the free flow of air, that there are no unusual circumstances that do not allow construction of single family homes on the site, that the lot has been overgrown for approximately 30 years, that the existing structure on the site is an eyesore, and that the use will be inconsistent with the neighborhood.

The Commission found that an attorney, representing the immediate neighbor to the north of the site, stated that the original applicant is still involved with this application, that the application was refiled prior to the one year requirement after denial, that the only change in the application is one less unit and requested the Commission to consider if the application was in compliance with the one year requirement, referenced findings established by Councilman Collins in the original application, referenced findings established by the opposition in the original application, referenced findings established by Councilman Cole in the original application, and submitted a packet containing copies of the July 11, 1995 County Council Minutes and findings, a letter in opposition from R.R.M. Carpenter, III, a letter of opposition from W. Laird Stabler, Jr. Esq., a copy of a 1932 deed to the property with setback restrictions, a copy of a 1980 deed to the property referring to

the record plot for Silver Lake Shores, a copy of the record plot, and a copy of two (2) reduced tax maps for the area.

The Commission found that an adjoining landowner spoke in opposition and referenced that he has a second home on the adjacent property since 1994, that he paid approximately \$385,000 for the property and home, that he has spent additional funds for landscaping, driveways, heat, air, and electrical upgrading, that no effort has been made to cleanup the site, that his view after construction of the proposed building will be two 80 foot walls with an elevator tower, that the use will be a detriment to the neighborhood, that parking and driveways will impact his home, that the suggestion of a flow through driveway from Pine Lane to Lake Drive may create additional traffic, that the curve of Lake Drive may have some visual obstructions, that values of neighboring homes will be negatively impacted, and submitted and described a small aerial photograph of the area, and photographs looking north and south from the site.

The Commission found that a Registered Landscape Architect stated that he has reviewed the site plan for the original application and this application and finds that the only difference that he could find was a one (1) unit reduction, that the lot coverage comparison does not compare existing density of the area, that the multi-family units on Lake Comegy do not inter-relate to Lake Drive, that the existing density on Lake Drive, excluding the existing four (4) unit multi-family building, equals approximately one dwelling unit per 23,000 square feet, that the proposed density of the application equals approximately one (1) dwelling unit per 7,500 square feet, that the proposed use is out of character with the community and is oversized in density, and that the highest and best use of the site is single family development.

The Commission found that the attorney present on behalf of the adjacent landowner read the purpose of the MR Medium Density Residential District.

The Commission found that a resident on Pine Lane stated that the unit over his garage is a quest house with no kitchen, and that it is not a rental unit.

The Commission found that a resident on Pine Lane stated that Pine Lane is gravel, not paved, and expressed a concern about stormwater runoff.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support and with the following stipulations:

1. The maximum number of units shall not exceed six units.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
3. The building shall be limited to three (3) units on the first floor, two (2) units on the second floor, a penthouse on the third floor, and a maximum height of forty-two (42) feet.
4. Landscaping shall be provided along property lines.

2. RE: C/Z #1279--Joseph R. Hudson & R. Craig Hudson

R. Craig Hudson and John Sergovic, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Indian River Hundred, located on the north side of Route 24, approximately 1,210 feet east of Road 313, to be located on a parcel containing 76.39 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District.

Mr. Sergovic stated that there are no changes intended in the subdivision layout, the density, or traffic, that the request is for GR General Residential zoning to permit manufactured homes, that with GR zoning they can permit H.U.D. code homes (manufactured homes) or C.A.B.O. code homes (site built or modular homes), and that the developers would like to permit and restrict the homes to double wide manufactured homes, modular or site built homes.

Mr. Sergovic presented two (2) charts on H.U.D. homes and C.A.B.O. homes and three (3) enlarged photographs of units.

Mr. Hudson explained the basic difference between the H.U.D. homes and C.A.B.O. homes, that H.U.D. homes retain the steel chassis and there are some electrical differences, that a C.A.B.O. home does not have any steel undercarriages, that they propose to restrict units to site built homes, modular homes or double wide manufactured homes with a minimum square footage, shingled roof, block foundation, a one or two car garage, house type siding, and architectural review of improvements, that a final decision has not yet been reached, but they may develop the project as a turn-key type sales with all improvements in place prior to any sales.

Mr. Wheatley suggested that the developers consider placing a minimum dimension for the size of the units.

Richard Anthony questioned the density if the site is rezoned.

Mr. Lank stated that the density would remain the same as long as on-site septic systems are proposed, and that if central sewer is made available a major subdivision amendment would be necessary through a public hearing process.

Ken Short stated that he is opposed to a manufactured home park type of community and expressed a concern relating to litter.

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 the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may be necessary for some on-site and off-site drainage improvements, that the soils are mapped as Evesboro loamy sand, Rumford loamy sand, and Woodstown loamy sand, that the Evesboro, Rumford, and some of the Woodstown soils have slight limitations, that some of the Woodstown soils have moderate limitations, that the developers will be required to follow recommended erosion and sediment control practices and to maintain vegetation, that the Evesboro and Rumford soils are considered of Statewide Importance, and that the Woodstown soils are considered Prime Farmland.

The Commission found that one of the applicants was present with an attorney and that the attorney stated that there are no changes intended in the subdivision layout, the density, or traffic, that the request is for GR General Residential zoning to permit manufactured homes, that with GR zoning they can permit H.U.D. code homes (manufactured homes) or C.A.B.O. code homes (site built or modular homes), and that the developers would like to permit and restrict the homes to double wide manufactured homes, modular or site built homes.

The Commission found that the attorney presented two (2) charts on H.U.D. homes and C.A.B.O. homes and three (3) enlarged photographs of units.

The Commission found that the owner explained the basic difference between the H.U.D. homes and C.A.B.O. homes, that H.U.D. homes retain the steel chassis and there are some electrical differences, that a C.A.B.O. home does not have any steel undercarriages, that they propose to restrict units to site built homes, modular homes or double wide manufactured homes with a minimum square footage, shingled roof, block foundation, a one or two car garage, house type siding, and architectural review of improvements, that a final decision has not yet been reached, but they may develop the project as a turn-key type sales with all improvements in place prior to any sales.

Mr. Wheatley suggested that the developers consider placing a minimum dimension for the size of the units.

The Commission found that a resident of Dewey Beach questioned the density if the site is rezoned.

It was reported to the Commission by the Director that the density would remain the same as long as on-site septic systems are proposed, and that if central sewer is made available a major subdivision amendment would be necessary through a public hearing process.

The Commission found that an adjoining land owner stated that he is opposed to a manufactured home park type of community and expressed a concern relating to litter.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support.

3. RE: C/Z #1280--W.T. Wilson

Mr. Lank advised the Commission that the application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the southeast corner of the intersection of Greystone Drive within Greystone Manor Subdivision and Route One, to be located on a parcel containing 1.06 acres more or less has been withdrawn by the applicant.

4. RE: C/Z #1281--Seabright Village

Gordon Berl and James A. Fuqua, Jr., Attorney, were present on behalf of this application to amend the zoning map from GR General Residential to HR-1/HR-2 High Density Residential in Lewes and Rehoboth Hundred, located on the northwest side of Route 270A, 1,000 feet northeast of Route One, to be located on a

parcel containing 4.74 acres more or less.

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

Mr. Lank read letters from Beachaven Condominium Association, Louis and Angelica Venti, and Webster Furniture.

Mr. Fuqua described the general area and submitted a tax map of the area, and stated that the site is between a multi-family project and a single family subdivision, that the site plan is conceptual, that a complete site plan will be submitted upon approval, that the adjoining multi-family project started in 1987 and proposed 72 units within 4 buildings, that three (3) of the buildings have been built and a foundation laid for the fourth building, that this site was a part of the site developed for multi-family, that the developer retained easements to this site for future development and for use of the pool, that the applicants do intend to utilize the pool and to participate in maintenance with the multi-family project, that 38 units are proposed, that the buildings proposed are duplex style buildings, that the units will be sold as condominiums, that the site with GR zoning would permit 18 units, that the site, rezoned HR, would permit 54 units, that the applicant is willing to restrict the site to 38 units with no alterations unless approved by the Sussex County Council, that the restriction will be placed prior to final site plan submittal, that the conceptual design was prepared to show the maximum number of units proposed, that envelopes may be created to cluster the homes and to create more open space, that central water is proposed from Tidewater Utilities, that public sewer is available through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the driveways will be built to County specifications and maintained by the association of property owners, that connection to the multi-family project is permitted by easement, that the primary entrance will be from Route 270A and will be built to DelDOT specifications, that landscaping will be provided along the perimeter of the project, that the increase in density will not significantly impact traffic, that the project should not impact Route One since traffic is controlled by the traffic light at the intersection with Route 270A, that stormwater naturally drains to the southwest corner of the site, that a shallow pond may be necessary, that the pond will be fenced if requested by the neighbors, that the site is in close proximity to the Rehoboth Beach fire substation on Route One, that the site is close to commercial shopping areas, that the use is a economic benefit to the areas tax base and sewer expenses, that the use is consistent with the Coastal Sussex Land Use Plan, the site is in a Development District, that the land use plan recognizes multi-

family projects where central water and sewer are available, that multi-family projects with density of 8 units per acre are suggested in Development Districts, that the site is adjacent to a high density development in the C-1 General Commercial District, that the project creates a natural progression of uses, that the site is appropriate to the purpose of a HR High Density Residential Zoning District, that a need exist for reasonable housing in the area, and that the project is feasible due to demand.

Richard Bryan of Re-Max stated that a need exist for rentals and reasonable housing and that the use is compatible to the general area.

Gordon Berl, one of the applicants, presented a colored site plan and elevation drawings of a duplex building, and stated that the project is in a development district, that they are willing to voluntarily restrict themselves to 38 units, that approximately one acre of open space is proposed with some playground equipment, that the anticipated price range for units is \$100,000, that the project is more appropriate than single family homes on 10,000 square foot lots, that the current zoning allows manufactured homes, that he has met with the Citizen's Coalition, and that he is willing to alter the site plan based on input from the Citizen's Coalition and the neighbors.

Mr. Fuqua, responding to questions raised by the Commissioners, stated that the entrance design will comply with DelDOT requirements, that the vehicles per hour will increase by 6 vehicles based on calculations by DelDOT, that the applicants will respond to the concerns relating to access, setbacks, and screening by the Beachaven multi-family residents, that the transition of uses from Route One past the site varies from Commercial to multi-family to the site for proposed duplex units to single family, and that if necessary the developer will cul-de-sac or loop the driveway system within the project, rather than interconnect with the multi-family project.

Terry Bartley, Richard Anthony, Jim Taylor, Tim Hill, and Barry Nichols, spoke in opposition to the application and stated that the burden is on the applicant to show community need, that the Beachaven project is a high density type development in the C-1 General Commercial District, that the Beachaven project was forced into bankruptcy, that the Beachaven project's track record does not support the need for this type of project in this area, that the concentration of population is excessive, that Road 270A has no shoulders or turning lanes, that approximately 1132 units exist off of Road 270A in addition to 130 campsites, that numerous commercial uses exist in the area, that increasing the

residential housing is not advisable, that the entrance location is within 150 feet of an entrance on either side, that the land use plan suggest 1-4 units per acre, that economic considerations should not be given consideration when rezoning, that public safety should be a concern, questioning what it takes to obtain a significant traffic impact concern from DelDOT, stating that there is no shortage of multi-family units in the area, that the general character of the area is single family detached housing, that the Citizen's Coalition would support an application limited to 4 units per acre, and that the developers are proposing to utilize the Beachaven driveways and pool.

Mr. Bartley submitted a petition containing 164 signatures in opposition to the application.

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 hearings.

The Commission found, based on comments received from DelDOT, that a revised traffic summary was received utilizing a 24 hour traffic count on April 10 and 11, 1996, that a traffic impact study was not recommended, and that the annual average daily traffic of Road 270A is 3263 vehicles with a summer average daily traffic of 5349 vehicles, that the existing level of service of Road 270A is "D", and that the level of service will not change as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that capacity is not expected to be a problem, that a 6-inch sewer lateral has been provided for service, that the proposal will require the installation of a wastewater collection system, that the Engineering Department will require review and approval through the Ordinance No. 38 procedures, that capitalization fees may be required prior to building permits being issued, that capitalization fees will remain in effect until December 28, 1996, and that if the wastewater system is not complete and accepted by the County before December 28, 1996, connection charges will apply.

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 on-site or off-site drainage improvements, that water may pond in depressions for short periods of time, that the soils are mapped as Evesboro sand, Sassafras sandy loam, and Sassafras loam which

have slight limitations, that the developers will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completion of any construction, and that the farmland rating of the Sassafras soils is considered Prime Farmland.

The Commission found that a letter of objection was received from the Beachaven Condominium Association stating that they are generally in favor of the plan provided by the developer, but expressed some concern about the proposed project incorporating with the Beachaven project, use of the Beachaven parking lot and secondary access, that access through Beachaven may create a safety hazard, trash and maintenance problems, that proposed units are only 20 feet from the side of the pool, that screening should be provided, that the density allows insufficient space for parking, open space, and storage, that permission for the use of the Beachaven pool has not been granted, and that houses on lots 13, 14, 15, 16, 31, and 32 are only 15 feet from the property line.

The Commission found that a letter of objection was received from Louis and Angelica Venti stating that the application was poorly timed, that the application should be applied for after the Comprehensive Land Use Plan is adopted, that the proposal is too dense and inappropriate for the neighborhood, that the use encroaches on the single family neighborhood, that the high density will jeopardize the comfort and enjoyment of the neighbors who purchased their land with residential zoning, questioning where visitors will park, concerned about the additional traffic on the intersection of Route One and Road 270A, and stating that a DelDOT traffic study should be mandatory.

The Commission found that a letter of support was received from Donald Webster of Webster Furniture referencing a positive impact on property values in the vicinity of the site.

The Commission found that one of the partners and an attorney were present and that the attorney described the general area and submitted a tax map of the area, stated that the site is between a multi-family project and a single family subdivision, that the site plan is conceptual, that a complete site plan will be submitted upon approval, that the adjoining multi-family project started in 1987 and proposed 72 units within 4 buildings, that three (3) of the buildings have been built and a foundation laid for the fourth building, that this site was a part of the site developed for multi-family, that the developer retained easements to this site for future development and for use of the pool, that the applicants do intend to utilize the pool and to

participate in maintenance with the multi-family project, that 38 units are proposed, that the buildings proposed are duplex style buildings, that the units will be sold as condominiums, that the site with GR zoning would permit 18 units, that the site, rezoned HR, would permit 54 units, that the applicant is willing to restrict the site to 38 units with no alterations unless approved by the Sussex County Council, that the restriction will be placed prior to final site plan submittal, that the conceptual design was prepared to show the maximum number of units proposed, that envelopes may be created to cluster the homes and to create more open space, that central water is proposed from Tidewater Utilities, that public sewer is available through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the driveways will be built to County specifications and maintained by the association of property owners, that connection to the multi-family project is permitted by easement, that the primary entrance will be from Route 270A and will be built to DelDOT specifications, that landscaping will be provided along the perimeter of the project, that the increase in density will not significantly impact traffic, that the project should not impact Route One since traffic is controlled by the traffic light at the intersection with Route 270A, that stormwater naturally drains to the southwest corner of the site, that a shallow pond may be necessary, that the pond will be fenced if requested by the neighbors, that the site is in close proximity to the Rehoboth Beach fire substation on Route One, that the site is close to commercial shopping areas, that the use is a economic benefit to the areas tax base and sewer expenses, that the use is consistent with the Coastal Sussex Land Use Plan, the site is in a Development District, that the land use plan recognizes multi-family projects where central water and sewer are available, that multi-family projects with density of 8 units per acre are suggested in Development Districts, that the site is adjacent to a high density development in the C-1 General Commercial District, that the project creates a natural progression of uses, that the site is appropriate to the purpose of a HR High Density Residential Zoning District, that a need exist for reasonable housing in the area, and that the project is feasible due to demand.

The Commission found that a real estate agent stated that a need exist for rentals and reasonable housing and that the use is compatible to the general area.

The Commission found that one of the applicants, presented a colored site plan and elevation drawings of a duplex building, and stated that the project is in a development district, that they are willing to voluntarily restrict themselves to 38 units, that approximately one acre of open space is proposed with some playground equipment, that the anticipated price range for units

is \$100,000, that the project is more appropriate than single family homes on 10,000 square foot lots, that the current zoning allows manufactured homes, that he has met with the Citizen's Coalition, and that he is willing to alter the site plan based on input from the Citizen's Coalition and the neighbors.

The Commission found that the applicant's attorney, responding to questions raised by the Commissioners, stated that the entrance design will comply with DelDOT requirements, that the vehicles per hour will increase by 6 vehicles based on calculations by DelDOT, that the applicants will respond to the concerns relating to access, setbacks, and screening by the Beachaven multi-family residents, that the transition of uses from Route One past the site varies from Commercial to multi-family to the site for proposed duplex units to single family, and that if necessary the developer will cul-de-sac or loop the driveway system within the project, rather than interconnect with the multi-family project.

The Commission found that five (5) people spoke in opposition to the application and stated that the burden is on the applicant to show community need, that the Beachaven project is a high density type development in the C-1 General Commercial District, that the Beachaven project was forced into bankruptcy, that the Beachaven project's track record does not support the need for this type of project in this area, that the concentration of population is excessive, that Road 270A has no shoulders or turning lanes, that approximately 1132 units exist off of Road 270A in addition to 130 campsites, that numerous commercial uses exist in the area, that increasing the residential housing is not advisable, that the entrance location is within 150 feet of an entrance on either side, that the land use plan suggest 1-4 units per acre, that economic considerations should not be given consideration when rezoning, that public safety should be a concern, questioning what it takes to obtain a significant traffic impact concern from DelDOT, stating that there is no shortage of multi-family units in the area, that the general character of the area is single family detached housing, that the Citizen's Coalition would support an application limited to 4 units per acre, and that the developers are proposing to utilize the Beachaven driveways and pool.

The Commission found that a petition containing 164 signatures was submitted in opposition to the application.

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

5. RE: Subd. #96-3--William M. & Betty Jane Tower

William Towers, developer, and Ted Simpler, surveyor, were present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Broad Creek Hundred by dividing 3.55 acres into 5 lots, located on the southeastern side of Road 485, 1,415 feet northeast of Road 488.

Mr. Abbott summarized the Technical Advisory Committee Report of April 17, 1996, and advised the Commission that no additional comments have been received and that the developer has not submitted the proposed restrictive covenants.

Mr. Towers advised the Commission that he is trying to correct the existing violations by subdividing the property, that he was not aware of the violations, that he will comply with all regulations, that there are presently eight manufactured homes on the property, that if approved, one manufactured home will be removed, that the manufactured home located in the woods does not belong to him, that he has permits for the manufactured homes along with well and septic permits, that he leases the properties, that no pets are allowed, that he has paid to have the trash cleaned up at the site, that he resides approximately one and a half miles from this site, that he had a person responsible for obtaining all required permits, that he will comply with the recommendations of the Technical Advisory Committee, and that he has contacted a contractor about the street improvements.

Mr. Simpler advised the Commission that three lots exist, that five additional lots are proposed for the manufactured homes currently on the site, and that one septic system serves two manufactured homes.

There were no parties present in support of this application.

Arthur Shepherd, Patricia Shepherd, Dawn Rust, and David James all spoke in opposition expressing concerns about trash blowing on there properties from the site, that the developer has been in violation for years and not done anything to correct the problems, that permits were granted after units were placed on the site, problems with the tenants making noises, trespassing, open air burning, that the homes are dilapidated, property values are negatively impacted, animals running loose, vandalism, fights at the site, and that they have to spend money to upgrade their own properties for problems not caused by themselves.

Mr. Shepherd submitted letters from Mr. & Mrs. Hoppey and Ken and Darlene Steele in opposition and four photographs of the site.

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.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to defer action so that the developer can investigate the costs associated with developing the property.

III. OTHER BUSINESS

1. RE: Donald Derrickson
Commercial Site Plan - Road 283

This project was withdrawn from the agenda on April 23, 1996.

2. RE: C/U #1136--Nicholas DelCampo and Mary Zimmerman

The Commission reviewed a site plan for a two unit duplex located on Bayard Street near Dewey Beach.

Mr. Abbott advised the Commission that the site plan is the same as what was submitted during the public hearing, that all setback requirements are met, and that all approvals have been received.

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

3. RE: Frank Marino

The Commission reviewed a commercial site plan located at the southeast corner of the intersection of Road 468 and Route 13.

Mr. Abbott advised the Commission that the site plan is for eleven commercial leased sites, that there is one entrance off of Route 13, that the plan references a fifty foot interior drive, that there is a service road along Route 13, that there is parking within the forty foot front yard setback along Route 13 but that the spaces are setback forty eight feet from the edge of the shoulder pavement, and that all agency approvals have been received.

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

IV. OLD BUSINESS

1. RE: ORDINANCE TO AMEND CHAPTER 115 (C-2 Zoning)

The Chairman referred back to this application which was deferred at the April 11, 1996 meeting.

Mr. Lank presented the Commission with copies of James Griffin's comments which were received at 4:25 PM this date.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to defer action so that the written comments submitted can be reviewed.

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that a letter has been received from Great Scott Broadcasting requesting that the stipulation that the road has to be paved be deleted from the approval.

It was the consensus of the Commission that no action be taken.

Meeting adjourned at 12:30 AM.