

## MINUTES OF THE REGULAR MEETING OF MARCH 10, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 10, 1994, at 7:30 P.M., in the Court of Common Pleas Courtroom, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mrs. Monaco, seconded by Mr. Magee, and carried unanimously to approve the minutes of February 24, 1994 as amended.

### II. PUBLIC HEARINGS

#### 1. RE: C/U #1064--Destination Developments, Inc.

John McCann of Destination Developments, Inc. was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for a Two (2) Lot Addition to an Existing Manufactured Home Park lying on the northeast side of Route 591, 100 feet south of Route 594 to be located on a parcel containing 1.04 acres more or less.

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

Mr. McCann advised the Commission that he proposes to add an additional two (2) lots to the existing park, that the street, serving the two lots will be improved to County specification, that the lots will have individual septic systems, that the lots will have central water hookup from the existing park's water system, and that the lot was purchased containing two (2) manufactured homes.

Mr. Lank advised the Commission that records indicate that a previous owner had obtained a replacement permit for a new manufactured home, that the original unit was not removed from the site, and that the lot was being utilized for two manufactured homes.

No parties appeared in opposition.

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

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



The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Fallsington sandy loam, that the Evesboro soils have none to slight limitation for the intended use, that the Fallsington soils may have severe limitations unless 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 the farmland rating of the soil types are considered of statewide importance, that no storm flood hazard areas or tax ditches are affected, that it may not be necessary for any off-site drainage improvements, and that on-site drainage improvements may be needed.

The Commission found that the application was represented by one of the owners who advised them that they propose to add an additional two (2) lots to the existing park, that the street will be constructed to County specifications, that the lots will have individual septic systems, that the lots will be served by central water from the existing park, and that the lot was purchased containing two (2) manufactured homes.

The Commission found that an original owner had obtained a replacement permit for a new unit, that the original unit was not removed from the site, and that the lot had been utilized for two units.

The Commission found that no parties appeared in opposition.

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 will be an extension to an existing manufactured home park, and with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. The street serving the two (2) lots shall be constructed to County specifications.

2. RE: C/U #1065--Joseph Mast

Joseph Mast was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for a Two (2) Family Dwelling Structure lying on the northwest corner of the intersection of Route 54 and Route 510 to be located on a parcel containing 2.04 acres more or less.



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

Mr. Mast advised the Commission that he proposes to build a duplex for rentals, that the building will be one story, measuring approximately 30' by 54', with 2 bedrooms and 1 bath per unit, that manufactured home exist in the general area, that approximately 50% of the area is utilized for residential purposes, and that he anticipated no adverse impact on the neighborhood or property values, and that he has no intent to devalue his property or anyone else.

James Dorman, Robert Mack, and Charles White spoke in opposition to the application and expressed concerns in reference to creation of multi-family rental properties in single family residential and agricultural areas, that rental properties create questionable clientele, trash, loss of rural character of the area, and the fear for additional units if rentals successful.

James Dorman submitted photographs of homes in the area and rental duplexes from the Dover area.

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

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

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Pocomoke sandy loam and Woodstown sandy loam, that the Woodstown soils may have moderate limitations, that the Pocomoke soils may have severe limitations, due to wetness, if not adequately drained, that the applicant may be required to follow an Erosion and Sedimentation Control Plan during any construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types are considered both prime and of statewide importance, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present and plans to build a duplex on the site for rental purposes, that the building will be a one story ranch style structure, measuring approximately 30' by 54', with two bedrooms and one bath per



unit, that manufactured homes exist in the area, that approximately 50% of the area is utilized for residential purposes, that he anticipates no adverse impact on the neighborhood or property values, and that he has no intent to devalue his property of anyone else.

The Commission found that three area residents spoke in opposition and expressed concerns in reference to creation of multi-family rental properties in a single family residential and agricultural area, that rental properties create questionable clientele, trash, loss of the rural character of the area, and the fear that additional rental units will be applied for if the project is successful.

The Commission found that the parties in opposition submitted photographs of the homes in the area and rental duplexes in the dover area.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since multi-family structures in this area would not be compatible to the single family uses in the area and since a precedent may be established for additional multi-family structures in the area if the application were to be approved.

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

James and Kim Lumas, and James Yori, Attorney, were present on behalf of Fun Sport, Inc. to consider the Conditional Use of land in an C-1 General Commercial District in Lewes and Rehoboth Hundred for a Go-Cart Track (Amusement Place/Racetrack) lying on the east side of Route One within the Midway Shopping Center to be located on a parcel containing 4.9 acres more or less.

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

Mr. Yori advised the Commission that the applicants intend to utilize the site for a family oriented go-cart rides on three different track, that the site was formerly utilized for a go-cart track, that the site is adjacent to a waterslide amusement, that the site will replace an existing miniature golf course, that the track will be compatible to the other recreational uses in the area, that the go-carts will have 5.5 h.p. gas engines, that chain link type fencing will surround the site, that no additional lighting will be necessary, that a total of 34 go-carts will be utilized on the three tracks, that operating hours will be 10:00 A.M. to 12:00 A.M. Daily which coincide with the



hours of operation of the shopping center and the waterslide, that a minimum of three employees will be present during business hours with an average of six employees per day, that adequate parking is available within the area, that gasoline will be stored in approved safety containers, that fire extinguishers shall be located at all refueling stations as well as in pit areas and on the track infield at locations no greater than 50' from any go-cart anywhere on a track, that the site is in close proximity to the existing entrance to the shopping center, that a State Police Troop Headquarters is in close proximity, and that no bumper car activities will be permitted, and that the go-carts are electronically controlled to allow employees to cut power on all carts at one time if necessary.

No parties appeared in opposition.

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

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

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

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in Phase I of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that sewer service is anticipated to be available by October 1995, that the County will accept holding tank wastewater in the interim, and that the property owner should be aware that capitalization fees will be required.

The Commission found that the applicant was represented by an attorney who advised that the applicants intend to utilize the site for family oriented go-cart rides on three different tracks, that the site was formerly used for a go-cart track, that the site is adjacent to a waterslide amusement, that the tracks will replace an existing miniature golf course, that the tracks will be compatible to the other recreational uses on the site, that chain link type fencing will be installed around the tracks, that



additional lighting may not be necessary, that a total of 34 go-carts will be utilized on the three tracks, that operating hours will be from 10:00 A.M. to 12:00 A.M. (midnight) daily which coincides with the hours of operation of the shopping center and the waterslide, that a minimum of three employees will be present during business hours with an average of six employees per day, that adequate parking is available, that gasoline will be stored in approved safety containers, that fire extinguishers shall be located at all refueling stations, the pit areas, and on the track infield at locations no greater than 50' from any go-cart anywhere on the track, that the site is in close proximity to the existing entrance to the shopping center, that State Police Troop No. 7 is in close proximity, that no bumper car activities will be permitted, and that the go-carts are electronically controlled to allow employees to cut power on all carts at any time if necessary.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use will be an expansion of existing recreational uses, since the site has been used previously for the same purpose, and with the following stipulations:

1. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.
2. Chain-link fencing, at least 48" high, shall be installed around the track perimeter.
3. Existing miniature golf course lighting may be relocated around tracks. No additional lighting shall be permitted.
4. The maximum number of tracks shall be three (3).
5. The maximum number of go-carts shall be thirty-four (34).
6. Operating hours shall be 10:00 A.M. to 12:00 A.M. (midnight) daily.
7. No less than three (3) employees shall be on site during business hours.
8. Adequate parking shall be provided.
9. Gasoline shall be stored in UL approved safety containers.
10. Fire extinguishers shall be located at all refueling stations, and in pit areas and on the track infield at locations no greater than 50' from any go-cart anywhere on a track.



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

Richard C. Woodin, President of Arnell Landing Development Corp., was present on behalf of the corporation's application to amend the zoning map from AR-1-RPC Agricultural Residential - Residential Planned Community to MR-RPC Medium Density Residential - Residential Planned Community in Lewes and Rehoboth Hundred, located on the west side of Route 274, 1.5 miles south of Route One, to be located on a parcel containing 90.01 acres more or less.

Mr. Lank summarized comments received from the Delaware Department of Agriculture Division of Resource Management, the Department of Natural Resources and Environmental Control (DNREC) Division of Water Resources Pollution Control Branch, the Sussex County Engineering Department, the Office of the Secretary of the State DNREC, the Office of the State Fire Marshal, the Sussex Conservation District, the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, the Delaware Health and Social Services Division of Public Health, the DNREC Division of Fish and Wildlife, the DNREC Division of Water Resources Water Supply Branch, and the DNREC Division of Parks and Recreation.

Mr. Woodin advised the Commission that the Corporation purchased the parcel in 1988 at the same time they purchased the tract for Arnell Creek Subdivision, that in 1990 they received approval for an AR-1 RPC for 140 lots containing approximately 13,600 square feet on this site, that the original plans provided wooded area open space and preservation of forested wetlands to protect wildlife and nesting areas, that recent suggested amendments to the RPC regulations proposed cluster housing and reduction of lot sizes, that the Corporation decided that they should apply for the MR RPC to allow for smaller lot, 7,500 square feet, and still maintain the same maximum of 140 lots, that two areas for stormwater management are proposed, that the reduced lot size plan provides for more open space, that the plan is designed that no rear lot lines abut each other within the project, that landscaped buffers will be maintained by a property owners association, that a survey conducted on tentative buyers indicates that a preference in location would include wooded lots, open space, pools, and tennis courts, that present residents have expressed concerns about the proposed interconnection of a street with Arnell Creek Subdivision, that the Corporation does not anticipate that the street will become a thoroughfare and that the Corporation is not opposed to deletion of the interconnection, that public streets are proposed to be built to State specifications, that the community center in Arnell Creek Subdivision was originally intended to be used jointly for both projects, that the Corporation proposes to



expand the parking facilities, buildings and recreational uses at the community center, that the Corporation is not opposed to creating a separate recreation area for Arnell Landing Subdivision, if required, that dwellings may be restricted to 1330 square feet minimum for a ranch style home and 1470 square feet for a two story home, that some waivers in square footage may be provided for front porches and screened rear porches, that landscaping plans for the front yards may be required, that the Corporation is working with the County Engineering Department to establish an easement for a pump station, that the Corporation feels that the MR plan creates a better cluster layout, that phase one of the development will probably include twenty (20) units, that temporary holding tanks may be utilized for the first phase until public sewer is available, that a 75' to 100' buffer area will run along Arnell Creek, that separate home owners associations will maintain open spaces in Arnell Creek Subdivision and Arnell Landing Development, that the AR-1 RPC plan depicted 34.2 acres of open space, that the MR RPC plan depicts 49.5 acres of open space, that a landscaped berm will be established along Old Landing Road, that the developers have not modified the restriction within Arnell Creek, that the developers are willing to separate the two projects, that gross living area does not include the garages, that a meeting is scheduled with the home owners of Arnell Creek on April 23, 1994 to transfer the community center and amenities to a home owners association, that the developers are also builders and plan to develop the site, and that other builders may be included in the project.

George Metz spoke in support of the application and stated that he does not anticipate any devaluation of property values, that if the Arnell Creek Community Center is expanded it may be beneficial to the residents of both developments, that additional open space will be beneficial to all the residents, that he would prefer a central community holding tank system over individual holding tanks, that 1,330 square foot of interior living area should be a required restriction, and that DelDOT and the Office of the State Fire Marshal should make the decision on the interconnecting street between the two developments.

Ben Cianini, Carol Fehrenbach, Harold Carmine, Ray Tomasetti, Mark Grahne, Debbie McCarthy, Joe Talley, of the thirty (30) parties present in opposition, spoke and expressed concerns to incompatibility of 7,500 square foot lots to 20,000 square foot lots, questioning how the stormwater management system will work, questioning how many model home designs will be permitted, questioning the interconnecting street system with Arnell Creek Subdivision, questioning when improvements will be made to the community center, questioning the use of the pool and fees for the Arnell Landing residents, stating that all of the



residents of Arnell Creek Subdivision prefer that the community center be exclusive for the Arnell Creek residents and that the community center should not serve the Arnell Landing project, questioning why the site plan for the community center did not conform to the actual construction for the community center, stating that residents of Arnell Creek purchased their lots with the understanding that Arnell Landing would be developed in a similar plan, stating that the residents of Arnell Creek were never advised that the Arnell Landing project would have smaller lots, that the two projects would have interconnecting streets, or that the Arnell Creek community center would serve both projects, stating that deed restrictions should be a condition of approval of the RPC zoning, stating that public streets built to State specifications should be a condition of approval, stating that DelDOT and the Office of the State Fire Marshal should review and decide on the benefit of the interconnecting street system, stating that the residents of Arnell Creek should have some say about the interconnection the streets within the projects, questioning if the community center is adequate to serve 280 home sites when other projects with lesser numbers of lots have similar sized recreation area, questioning how the community center can be expanded when the adjoining lot proposed for the expansion has been sold by the developer, stating that the residents of Arnell Creek feel that larger recreational facilities are needed to serve both projects, questioning maintenance of open space within both project, questioning the referenced waivers in required living space by creation of front and rear porches, questioning detached garages since Arnell Creek is not permitted detached garages, questioning the use of the model homes and sales office at Arnell Creek, stating that the community center and pool were recently completed, not yet used, and that the residents have no idea about the potential number of users, stating that the developer, as long as they maintain controlling interest of lots can revise the deed restrictions, stating that living space square footages should be conditions of the approval and should include 1,400 square feet for single story dwellings and 1,600 square feet for two story dwellings with a minimum of 900 square feet for the first floor area.

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

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



The Commission found, based on comments received from the Department of Agriculture Division of Resource Management, that the Division performed a Land Evaluation and Site Assessment analysis and found that the site scored 169 out of 300 points which is below average for Sussex County farms, that the Land Evaluation score of 98 out of 100 points was very high due to the abundance of highly productive Sassafras and Woodstown soils, that the Coastal Sussex Land Use Plan highlights the site as prime agricultural land, that the Site Assessment score only totaled 71 out of 200 points which is low for Sussex County, that increasing development in the area of the Rehoboth Bay makes this parcel susceptible to future development, that a substantial number of the Site Assessment factors indicate local conditions more favorable toward development, that the Division does not object to the development, but request that tree disturbance be kept to a minimum since farming does exist across Arnell Creek and the trees will serve as a buffer for the future residents of the area.

The Commission found, based on comments received from the DNREC Division of Water Resources Pollution Control Branch that the Branch has no objection.

The Commission found, based on comments received from the County Engineering Department, that the proposal is located in Phase II of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the Department anticipates sewer service to be available by October 1995, that the County will accept holding tank wastewater at the Inland Bays or South coastal Regional Wastewater Facilities in the interim, that the property owners should be aware that capitalization fees or connection charges will be required for the project and that the developer will be responsible for installing the wastewater collection system in accordance with County Ordinance No. 38.

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 Soil and Water Conservation, the DNREC Division of Water Resources Pollution Control Branch, Watershed Assessment Branch, Water Supply Branch, and Wetlands and Aquatic Protection Branch, the Department of Agriculture, the Delaware State Historic Preservation Office, the Department of Health and 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 Office of the State Fire Marshal, that their Office has no objection to the proposal.

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 and Sassafras loam which has slight limitations, Woodstown loam which has moderate limitations and may need drainage, and Fallsington loam which has severe limitations due to high water table unless adequately drained, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating is considered Prime and of Statewide Importance.

The Commission found, based on comments received from the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, that the proposal will result in a direct impact on wetlands or waterways unless any stormwater management facility is not located in wetlands or waterways unless there are no practicable alternatives, that permits may be required from the Army Corps. of Engineers for such facility if located in a wetland or waterway, that wetlands/waterways should be identified prior to actual site planning, and that high value wetlands/waterways should be avoided during development activities.

The Commission found, based on comments received from the Delaware Health and Social Services Division of Public Health, plans must be submitted to the Division prior to construction of the central water system.

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

The Commission found, based on comments received from the DNREC Division of Water Resources Water Supply Branch, that the Branch has no objection to the proposal, that the proposal is located in the Certificated area of Tidewater Utilities, and that the applicants should contact Tidewater Utilities to obtain a statement of water availability.



The Commission found, based on comments received from the DNREC Division of Parks and Recreation, that the Natural Heritage Program Office advises maintaining the forested buffer along Arnell Creek by not extending lot lines to the stream and keeping the buffer in community open space, that the area could be protected by a conservation easement, that a conservation easement could provide certain tax advantages for the developers, and that the forested buffer along Arnell Creek provides wildlife habitat and helps to maintain good water quality, that the Greenways Office advises that the project does not negatively effect current or proposed greenways, nor does it negatively effect the provisions of outdoor recreation opportunities or facilities, that the Natural Heritage Inventory Office advises that they have searched its database and found that no rare plants, animals or natural communities are known to occur within the site boundaries, that their Office realizes that a portion of the project borders Arnell Creek which has a fairly steep wooded slope and that this area warrants inventory work prior to any surrounding construction, that such an inventory should be conducted on May or June to focus on plants and animals, and that protection should be provided for any species of concern located by the inventory, that the Office is concerned with the negative impact on water quality of Arnell Creek and downstream wetlands, that appropriate measures should be taken to control seepage due to the slope, that woodland buffers should be left undisturbed along Arnell Creek and that existing woodland should remain on site, that the disappearance of forest cover throughout the Inland Bays area is a primary concern due to the possible impact on migrating birds, that clustering housing and donating a conservation easement on the remaining undisturbed forest cover can minimize negative effects of development, can be aesthetically pleasing, save development costs and can be attractive to perspective buyers.

The Commission found that the applicants were represented by the President of the Corporation who advised the Commission that the Corporation purchased the parcel in 1988 at the same time they purchased the tract for Arnell Creek Subdivision, that in 1990 they received approval for an AR-1 RPC for 140 lots containing a minimum of 13,600 square feet per lot, that the original plans provided wooded area open space and preservation of forested wetlands to protect wildlife and nesting areas, that recent suggested amendments to the RPC regulations proposed cluster housing and reduction of lot sizes and that the Corporation decided that they should apply for the MR RPC to allow for smaller lots, 7,500 square feet, and still maintain the same maximum of 140 lots, that two areas for stormwater management are proposed, that the reduced lot size plan provides for more open



space, that the plan is designed so that no rear lot lines abut each other within the project, that landscaped buffers will be maintained by a property owners association, that a survey conducted on tentative buyers indicates that a preference in types of lot location and amenities would include wooded lots, open space, pools, and tennis courts, that present residents have expressed concerns about the proposed interconnection of a street with Arnell Creek Subdivision, that the Corporation does not anticipate that the street will become a thoroughfare and that the Corporation is not opposed to deletion of the interconnection, that public streets are proposed to be built to State specifications, that the community center in Arnell Creek Subdivision was originally intended to be used jointly for both projects, that the Corporation proposes to expand the parking facilities, buildings and recreational uses at the community center, that the Corporation is not opposed to creating a separate recreation area for Arnell Landing Subdivision, if required, that dwellings may be restricted to 1330 square feet minimum for a ranch style home and 1470 square feet for a two story home, that some waivers in square footage may be provided for front porches and screened rear porches, that landscaping plans for the front yards may be required, that the Corporation is working with the County Engineering Department to establish an easement for a pump station, that the Corporation feels that the MR plan creates a better cluster layout, that phase one of the development will probably include twenty (20) units, that temporary holding tanks may be utilized for the first phase until public sewer is available, that a 75' to 100' buffer area will run along Arnell Creek, that separate home owners associations will maintain open spaces in Arnell Creek Subdivision and Arnell Landing Development, that the AR-1 RPC plan depicted 34.2 acres of open space, that the MR RPC plan depicts 49.5 acres of open space, that a landscaped berm will be established along Old Landing Road, that the developers have not modified the restriction within Arnell Creek, that the developers are willing to separate the two projects, that gross living area does not include the garages, that a meeting is scheduled with the home owners of Arnell Creek on April 23, 1994 to transfer the community center and amenities to a home owners association, that the developers are also builders and plan to develop the site, and that other builders may be included in the project.

An area resident spoke in support of the application and stated that he does not anticipate any devaluation of property values, that if the Arnell Creek Community Center is expanded it may be beneficial to the residents of both developments, that additional open space will be beneficial to all the residents, that he would prefer a central community holding tank system over individual holding tanks, that 1,330 square foot of interior



living area should be a required restriction, and that DelDOT and the Office of the State Fire Marshal should make the decision on the interconnecting street between the two developments.

Seven (7) residents, of the thirty (30) residents present, spoke in opposition and expressed concerns to incompatibility of 7,500 square foot lots to the 20,000 square foot lots existing in Arnell Creek Subdivision, questioning how the stormwater management system will work, questioning how many model home designs will be permitted, questioning the interconnecting street system with Arnell Creek Subdivision, questioning when improvements will be made to the community center, questioning the use of the pool and fees for the Arnell Landing residents, stating that all of the residents of Arnell Creek Subdivision prefer that the community center be exclusive for the Arnell Creek residents and that the community center should not serve the Arnell Landing project, questioning why the site plan for the community center does not conform to the actual construction for the community center, stating that residents of Arnell Creek Subdivision purchased their lots with the understanding that Arnell Landing would be developed in a similar plan, stating that the residents of Arnell Creek were never advised that the Arnell Landing project would have smaller lots, that the two projects would have interconnecting streets, or that the Arnell Creek community center would serve both projects, stating that deed restrictions should be a condition of approval of the RPC zoning, stating that public streets, built to State specifications, should be a condition of approval, stating that DelDOT and the Office of the State Fire Marshal should review and decide on the benefit of the interconnecting street system, stating that the residents of Arnell Creek should have some say about the interconnection the streets within the projects, questioning if the community center is adequate to serve 280 home sites when other projects with lesser numbers of lots have similar sized recreation area, questioning how the community center can be expanded when the adjoining lot proposed for the expansion has been sold by the developer, stating that the residents of Arnell Creek feel that larger recreational facilities are needed to serve both projects, questioning maintenance of open space within both projects, questioning the referenced waivers in required living space by creation of front and rear porches, questioning the inclusion of detached garages since Arnell Creek is not permitted detached garages, questioning the use of the model homes and sales office at Arnell Creek, stating that the community center and pool in Arnell Creek were recently completed, not yet used, and that the residents have no idea about the potential number of users, stating that the developer, as long as they maintain controlling interest of lots can revise



the deed restrictions, stating that living space square footages should be conditions of the approval and should include 1,400 square feet for single story dwellings and 1,600 square feet for two story dwellings with a minimum of 900 square feet for the first floor area.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to defer action. The staff was requested to correspond with DelDOT and the Office of the State Fire Marshal for comments about the interconnection of the street systems of the two projects.

5. RE: C/Z #1221--Glenn H. & Linda Griffin

Glenn and Linda Griffin were present on behalf of their application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located on the east side of Route 13, approximately 740 feet south of Route 18, to be located on a parcel containing 0.67 acres more or less.

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

Mr. Griffin advised the Commission that he has a contract to purchase the site if the zoning is approved, that the site is proposed to be an extension to his existing commercial site to the south, that he has built a warehouse for his construction business and mini-storage building on the existing site and plans to build additional mini-storage buildings, that the additional area will provide more usable space on the site for access to both sides of the proposed mini-storage building, and that the building will conform to the building already on the site.

No parties appeared in opposition.

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "B" of Route 13 will not change as a result of this application.



The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or Tax ditch is affected, that it may not be necessary for any off-site drainage improvements, that on-site drainage improvements may be needed, that the soils are mapped as Sassafras sandy loam which has slight limitations, that the applicant 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 that the applicants were present and advised the Commission that they have a contract to purchase the site of the zoning is approved, that the site is proposed to be an extension to his existing commercial site to the south, that he has built a warehouse for his construction business and mini-storage building on the existing site and plans to build additional mini-storage buildings, that the additional area will provide more usable space on the site for access to both sides of the proposed mini-storage building, and that the building will conform to the building already on the site.

The Commission found that no parties appeared in opposition.

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 rezoning will be an extension to an existing commercial parcel being developed by the applicant.

### III. OTHER BUSINESS

#### 1. RE: Joseph Tunnell Thompson

The Commission reviewed a subdivision request to create two parcels located on the north side of Route One, northwest of Route 271 near Rehoboth.

Mr. Abbott advised the Commission that this request requires Commission approval since Route One is a major arterial roadway, and that by a letter from DelDOT that the department has approved the entrance location across from an existing traffic signal and has no objection to the subdivision.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the two parcel subdivision.



2. RE: K-Mart #7725

The Commission reviewed a commercial site plan for a 117,162 square foot retail store on the north side of Route One, northwest of Route 271 near Rehoboth.

Joe Conaway, Realtor, Richard Pierson, Engineer and Anthony Guccione, Engineer of John Meyer Consulting were present on behalf of this site plan.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code, that the developers have submitted a packet of construction design and landscaping plans along the site, and that as of this date no agency approvals have been received.

Mr. Pierson advised the Commission that the landscaping will be deciduous trees and evergreens, and that individual K-Mart stores require more parking spaces than local zoning codes.

Mr. Conaway asked that the Commission allow the staff to grant final site plan approval once the developers submit all required agency approvals and or permits.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that the staff approve as a final once all required agency approvals and or permits have been received.

3. RE: Delaware State Housing Authority

The Commission reviewed the final site plan for a 35 unit multi family project for the Delaware State Housing Authority on Route 54, northwest of Selbyville.

Mr. Abbott advised the Commission that the site plan is the same as the preliminary plan, that all requirements of the code have been met, and that all required agency approvals and or permits have been received.

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



4. RE: Subd. #90-4--South Woodland

The Commission reviewed a revised subdivision plat for South Woodland Subdivision on the south side of Route 78 near Woodland.

Mr. Abbott advised the Commission that the developer plans to delete the subdivision except for five lots along the Nanticoke River, that these lots will have access from an existing street that will be improved and that the developer will apply for an expansion to an existing mobile home park for the remaining lands.

Motion made by Mrs. Monaco, seconded by Mr. Phillips, and carried unanimously to approve the revised plat as submitted.

5. RE: Antonio Nero

The Commission reviewed a revised plot to reduce one parcel to 1.5 acres on Danny's Drive in Nero Acres.

Mr. Abbott advised the Commission that a five acre parcel is being reduced to 1.5 acres and that the remaining lands will be an extension to another lot.

Motion made by Mrs. Monaco, seconded by Mr. Phillips, and carried unanimously to approve the revised plot.

6. RE: Joseph Penuel

The Commission reviewed a concept to create a lot off of an existing fifty foot right of way on the north side of Route 224.

Mr. Lank advised the Commission that Mr. Allen would like to visit the site before any action is taken.

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

7. RE: Estate of Mary E. Passswaters

The Commission reviewed a concept to create three parcels with access from a fifty foot right of way and five extensions to existing lots on Route 224.

Mr. Lank advised the Commission that the extensions would be to lots that are improved, that there would be three new lots with access from a fifty foot right of way that will be required to be improved and that this property is being divided to settle an estate.



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

8. RE: C/U #1028--Harry J. Anagnostakos

Mr. Abbott advised the Commission that a request for a one year time extension has been received for this project since the construction design has not yet been finalized.

Motion made by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to approve a one year time extension.

9. RE: The Pines

Jeff Clark of Land Tech Inc. was present as the Commission reviewed a revised subdivision plan for the Pines subdivision on Route One north of Bethany.

Mr. Abbott advised the Commission that the developer is going to delete the recorded 47 lot subdivision and two entrances on Route One and create 9 lots on Route One and three lots off of an existing fifty foot right of way and that the staff has not received any approvals or correspondence from DelDOT.

Mr. Clark advised the Commission that the developer will have to build a service road as recommended by DelDOT, that the service road will have to be at least 14 foot in width and it will be on the lands of the developer, and that the proposed deed restrictions will be submitted for review and approval.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve as a concept with the stipulation that DelDOT approve an entrance and or service road and that the deed restrictions be submitted for review and approval prior to granting final approval.

10. RE: Bethany Bay

Jeff Clark of Land Tech Inc was present as the Commission reviewed the site plan for Phase 5 Sections 1.7 and 1.8 of Bethany Bay AR-1/RPC.

Mr. Abbott advised the Commission that 49 single family units are proposed, that the site plan is similar to the revised approved master plan, that the minimum distance between units is twenty feet, and that no units encroach into the wetlands.



Mr. Clark advised the Commission that a part of the golf course is included in this phase and stated that no units will encroach into the wetlands.

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

11. RE: Long Neck Elementary School

The Commission reviewed a site plan for a public elementary school on Route 298 near Long Neck.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code, and that approvals have been received from the fire marshal and stormwater management.

Motion made by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval be subject to the staff receiving all required agency approvals and or permits.

IV. OLD BUSINESS

1. RE: Subd. #91-24--Sara M. Short

Bob Nash, Surveyor, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred by dividing 32.46 acres into 46 lots, located on the northeastern side of Route One, 915 feet northwest of Route 200.

Mr. Abbott advised the Commission that this application has been deferred since November 21, 1991, pending a septic feasibility statement from DNREC, that the staff has received this report and that the site is suitable for individual on site septic systems.

Mr. Nash advised the Commission that the existing dwelling and shed on Lot 34 will be removed.

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



2. RE: Subd. #93-12--Dr. James Beebe, Jr.

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 41.70 acres into 26 lots, located on the north side of Route 287, 1,470.79 feet southeast of Route 285, and the east side of Route 285, 272 feet north of Route 287.

Mr. Abbott advised the Commission that this application was deferred at the November 18, 1993 pending receipt of a septic feasibility statement from DNREC, that the staff has received this report and that the site is suitable for a community wastewater disposal system only but that the record plat states that individual systems are proposed, and that the staff has not received any correspondence from the surveyor about revising the street design.

Motion made by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to defer action. It was the consensus of the Commission that the staff inquire about the status of the proposed septic and street design.

Meeting adjourned at 11:20 P.M.