

MINUTES OF THE REGULAR MEETING OF MARCH 25, 1993

The regular meeting of the Planning and Zoning Commission was held Thursday evening, March 25, 1993, at 7:30 PM, in the Superior Court Room of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the minutes of February 18, 1993, and March 11, 1993. Mr. Allen did not vote on the March 11, 1993 minutes since he was not in attendance.

II. PUBLIC HEARINGS

1. RE: Subd. #93-6--Donald M. Martin

Don Martin, developer, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 7.38 acres into 5 lots, located at the end of Pit Road, 1,300 feet southeast of Route 530.

Mr. Abbott summarized the Technical Advisory Committee Report of March 18, 1993 and comments received from the DNREC Water Supply Branch in reference to this application.

Mr. Martin advised the Commission that he will comply with the recommendations of the Technical Advisory Committee, that no wetlands are known to be on the site, that he will be responsible for the street maintenance of the five lots until all lots are sold, that the existing road is in the process of being dedicated to the State of Delaware, that some dirt has been removed from the site, that the non conforming construction yard will be removed once the last lot is sold and that there will not be any remaining lands, that each lot owner will have a deed restriction for maintenance of the street, and that the area that has been disturbed was done by a previous owner.

Daniel Noblitt, Michael Sanderbeck, and Ken Misiewicz raised questions about the street maintenance and how they are developed, and expressed concerns about the construction site that is located on the property.

Mr. Lank explained the street construction process and bonding method utilized by the County.

No one was present in opposition.

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.

Mr. Abbott advised the Commission that a septic feasibility statement has not been received from DNREC.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending receipt of a septic feasibility statement.

2. RE: Subd. #93-7--Richard W. Aydelotte

Rick Aydelotte, developer, and Jeff Reed, designer, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 26.25 acres into 38 lots, located on the southern side of Route 16, 1,760 feet northeast of Route 234A.

Mr. Abbott summarized the Technical Advisory Committee Report of March 18, 1993, and comments received from DNREC Water Supply Branch in reference to this application.

Mr. Aydelotte advised the Commission that he will comply with the recommendations of the Technical Advisory Committee, that he would not be opposed to creating a buffer around the development, that the pond will probably be a detention pond and would erect a fence around it if required, and that the dirt road shown on the site is not a part of this property.

No one was present in opposition.

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.

Mr. Abbott advised the Commission that a septic feasibility statement has not been received.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending receipt of a septic feasibility statement.

3. RE: C/Z #1188 -- Allen Family Foods, Inc.

Charles Allen III of Allen Family Foods, Inc. and Joseph T. Conaway, a Consultant, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HI-1 Heavy Industrial in Broadkill Hundred, located on the west side of Route 5, south of Conrail Railroad and 0.4 miles south of Route 9 at Harbeson to be located on a parcel containing 35.00 acres more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation, DelDOT, the Office of the Secretary of the Department of Natural Resources and Environmental Control, DNREC, the Indian River School District, the DNREC Division of Water Resources - Pollution Control Branch, the DNREC Division of Water Resources - Underground Discharges Branch, the DNREC Division of Air and Waste Management, the Sussex Conservation District, the Office State Fire Marshal, the Department of Agriculture - Division of Resource Management, and the Director of the DNREC Division of Water Resources.

Mr. Lank read letters in opposition from Norman & Bonnie Montgomery, and Clifford and Sharon Joseph.

Joseph T. Conaway of Consultants Unlimited submitted a packet of data on behalf of the applicants, and a copy of the letter from the Director of the DNREC Division of Water Resources.

Mr. Conaway advised the Commission that the applicants intend to utilize the site for an Industrial use, that they propose to cross the railroad right of way at 2 location at each end of the existing buildings on the existing plant site, that the 2 existing dwellings on the site are occupied, that the proposed building will be a 22,000 square foot pre-cast concrete structure, that there is no intent to utilize the 2 existing access points onto Route 5, that the projected number of additional truck trips per week is 26 after completion of construction, the proposed building is a part of major site improvements to the existing use, that contact with the State DNREC indicates that the track record of the company has been virtually spotless since the business was taken over by the applicants and that it is attributed directly to the environmental commitment from the management of the facility, that the applicants propose to build a berm along the residential properties along Route 5, that the project is designed that all activities are performed within a completely enclosed structure, that the use will conform to all clean air requirements, that the existing facility presently environmentally exceeds any requirements of the State DNREC, that no discharges of chlorine exist at the site, that sludge from the existing site is presently spread at a site north

of Route 16 and east of Route 30, near Milton, not near Ellendale as it has been erroneously reported, that no State or Federal Wetlands exist on the site, that no prime agricultural land exist on the site, that no historical sites exist on the site, that no concern exist for water availability based on the Coastal Sussex Land Use Plan, that no threat is intended on water supply, and that the project will add an additional 30 to 40 employees to the present 763 employees at the site.

Charles Allen III advised the Commission that the company is a family run business which has been in operation since 1919, that the existing business on the adjoining site was purchased in 1988, that one of the problems at the existing site is the non-competitive facility compared to other national facilities, that wastewater was a concern when purchased, that the facility had had constant violations prior to purchase by Allen Family Foods, Inc., that concerns had been expressed about trucks and truck safety, and noise, that since the company took over the facility no violations and no fines have been imposed by DNREC, that this site is economically the best site over the other Allen sites for the proposed improvements, and that all by-products are sent to rendering facilities elsewhere and then purchased back for feeds,.

Richard Morris of the Dupps Company, a manufacturer of Process Machinery, presented a video of a similar facility and described the activities and the structure on the video.

Mr. Daniel Ogletree of Mill Point Industries, a manufacturer of odor abatement systems, advised the Commission that his company provides air treatment facilities for rendering plants, that 220 protein recovery facilities exist in the United States, and that the company is willing to test water from scrubbers from any operating protein recovery plant to verify lack of contaminants.

Mr. Harold Carmean of Advisory & Appraisal Company, a certified appraiser in Delaware, stated that he reviewed the site for any negative impact on properties in the area, that he considered the location, noise, smell and environmental concerns, that he reviewed the site twice and the site plan proposed, that the location of the proposed building and the placement of a berm along residential properties should create no negative impact on the neighboring areas, that he had contacted representatives of the Dupps Company and representatives of other companies and determined that if the building is totally enclosed there should be no noise or odors, that the use intended will enhance the existing facilities, that the Harbeson area is stable in growth, that sales have continued in the market place for real estate since the company purchased the plant, that the original odor problem did impact values, and that the track record of the applicant indicates no negative impact on the real estate market of the Harbeson area.

Mr. Conaway stated that the rezoning is needed for expansion of Sussex County agricultural business, that the rezoning is in keeping with the purpose of the HI-1 Heavy Industrial District, that the use is appropriate to the Coastal Sussex Land Use Plan as the plan relates to agriculture, that the use will protect the inland bays since discharges exceeds any regulations that affect the inland bays, that the use will be in keeping with the Coastal Sussex Land Use Plan, that the rezoning is in keeping with land use trends in the area, that a berm, 6 to 8 feet high, is proposed for landscaping, that the plant will utilize an area of approximately 5 acres, that there are no immediate plans for the residual acreage, that the crossovers from the railroad have not yet been obtained, that there are no immediate plans for the existing stables or sheds on the site, that the existing pasture fencing will be removed, that no hazardous materials are on the site, that security will be provided from the existing plant, that rendering products will not be brought in from outside companies, only Allen Family Foods facilities.

Charles Allen, III stated that presently raw material is trucked 3 or 4 times per day, that it is the company's intent to truck the raw material from the processing plant directly to the protein recovery plant, that trucking is proposed since scale weights can be established to track the amount of material processed, that the number of birds handled per day may increase within the next 5 years at a minimum, that the existing plant works 2 eight hour production shifts and 1 clean up shift, and that the building height should not exceed 30 feet, excluding stacks, vents, and air units.

William Moore, Esquire was present on behalf of the people of Harbeson.

Mr. Moore stated that he had seven (7) witnesses.

Mr. Moore requested the Commission to keep the record open to allow a qualified appraiser to evaluate the impact of the plant on the Harbeson area.

There was a consensus of the Commission to reject the request since they must make a recommendation within 45 days.

Mr. Moore introduced Robert L. Lawson, President of the Harbeson Improvement Association.

Mr. Lawson presented a video tape for review which described the area, made reference to truck traffic, drainage, pollution, litter, the impact on the retirement type community, the impact on family homes which adjoin the plant site, entrance problems along Route 5, a Delmar site also owned by the applicant, that the Delmar

site would be more appropriate for the intended use, that the video depicted that approximately 7 homes near the Delmar site, and that there are 50 homes in the immediate area of Harbeson and 125 homes in the general area around Harbeson.

Mr. Lawson presented a petition containing 265 signatures in opposition.

Mr. Lawson presented a video of Lud Seifert, a chemist, which referenced chlorine containing organic materials and the possible harmful effects.

Mr. Todd Lawson, eighteen year old son of Robert L. Lawson, presented a chart map of the existing site and immediate area, and 18 photographs that were taken March 23, 1993. The photographs relate to numbers marked on the chart map.

Ms. Mada M. Graves, a resident of the Harbeson area and an Environmental Health Officer for the State, spoke in opposition and expressed concerns in reference that water quality must be maintained, that the Columbia Aquifer flows southeast, that the homes in Harbeson are southeast of the site, referenced chemical uses, that all wells in the Harbeson area are domestic individual wells, that a heavy industry should not be in a well protection area, that the State can only monitor wells after wells are installed, and expressed fears that all wells in Harbeson are domestic wells - not central water creating an impact on individuals, that heavy industry uses degreasers, oils, chemicals, and industrial cleaners, an expressed concerns about nitrates already reported in area well test.

Ms. Graves submitted a consumer education guide "Organic Chemicals in Drinking Water", an EPA guide "Wellhead Protection - A Decision-Makers' Guide, and an EPA guide "Citizen's Guide to Ground-Water Protection".

Mr. Harold D. Johnson, Jr. of Harbeson and Washington, D.C., spoke in opposition with fears that children may get into the polluted creek, that the rendering plant will create more employees, more traffic, more effluent, more effluent than all of the septic systems in the area, that the past use of the site, a horse farm, contributed to the area, and that a rendering plant does not contribute anything to the area.

Ms. Sharon Joseph of Harbeson spoke in opposition and expressed concerns in reference to the long term environmental impact on the homes in Harbeson, that the number of homes in the Harbeson area has doubled, that a large majority of the homes are occupied with young adults with children, that she has concerns about air and water pollution, and odors from the processing plant.

Ms. Shirley Fuller of Harbeson spoke in opposition by agreeing with statements made by previous opposition and referencing debris (blood, etc...) from leaking trucks.

Ms. Gladys Graves of Gravel Hill spoke in opposition due to spillage from rendering products at the intersection at Gravel Hill, that 2 spills have occurred within the last year, and expressed concerns about more traffic and more users due to the increased size of the site.

Ms. Graves submitted 6 pictures of the intersection and the spill on the roadways.

Ms. Graves submitted a plastic bag of rendering product which the Commission refused.

Mr. Robert L. Lawson stated that representatives of Allen's Family Foods admit that poultry plants devalue property values, that the expansion will not improve values, that Allens own hundreds of acres of land, that other Allen sites would be more appropriate than the Harbeson site, that the applicants stated that they only intend to utilize approximately 5 acres of the 35 acre tract being rezoned, questioning what the long range plan is for the site, and stated that an environmental impact study is needed.

Mr. Moore stated that the pictures speak for themselves, that the pictures of human waste on the ground should defeat the application, that the State DNREC has not enforced the laws, that the pictures show that the law has not been enforced, that the function of the County is to protect the citizens of Harbeson, that the citizens of Harbeson deserve better from the government, that the track record of Allens Family Foods, Inc. does not warrant an approval, and requested that the application be denied.

Ms. Laura Price, an area resident, stated that 95 percent of the employees do not live in Harbeson.

Mr. Moore submitted 5 letters in opposition from James W. Prettyman, Harvey and Dorothy Field, Carl and Rosa Krick, Betty Krick, and Dave and Esther Johnson.

Mr. Harold Truxon, of the Ellendale Civic Association, stated that he supports the efforts of the Harbeson Improvement Association to oppose the application, and expressed a concern about increased dumping of sludge in the fields near Ellendale.

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, that the existing level of service of Route 5, between U.S. Route 9 and Road 48, is "B", and that the level of service of the referenced road segment may change to level of service "C" if the site is developed as a subdivision or as a general light industry.

The Commission found, based on additional comments received from DelDOT, that based on a site plan and letter, that the existing entrance may be required to be modified, that modifications will be dependant upon the traffic generation figures and will be determined at the entrance permit submission stage.

The Commission found, based on comments received from the Secretary of the Department of Natural Resources and Environmental Control, DNREC, that comments have been requested from the DNREC Division of Air and Waste Management Air Resources Section, Waste Management Section Hazardous Waste Branch, Solid Waste Branch, and Underground Storage Tank Branch, 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 Water Supply Branch, Wetlands & Aquatic Protection Branch, Pollution Control Branch, Watershed Assessment Branch, and Underground Discharges Branch, the Department of Agriculture, the Bureau of Archaeology & Historic Preservation, the Department of Health & Social Services Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, State Police Headquarters Communications, and Sussex Conservation District.

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

The Commission found, based on comments received from the DNREC Pollution Control Branch, that the Branch has no objection to the referenced project provided the change is consistent with adjacent land use.

The Commission found, based on comments received from the DNREC Underground Discharges Branch, that the soils on the site are suitable for on-site wastewater disposal and may require pressurization due to the size of the disposal area and permeability of the soils, that a licensed soil scientist must conduct the site evaluation with a minimum of three soil borings in a proposed disposal area, that a site evaluation must be submitted

to the Soils Group with the appropriate fee, and that for commercial properties the maximum siting density will be 500 gallons per 1/2 acre.

The Commission found, based on comments received from the DNREC Division of Air and Waste Management - Air Resources Section, that the applicant will be required to obtain a permit to undertake any activity which may cause or contribute to the discharge of an air contaminant, that the primary air pollutants from a protein recycling or rendering plant are rendering fumes which normally have extremely low odor threshold values, that air pollution control measures will be required for the proposed process to reduce odorous emissions to a non-nuisance condition for the residents living near the property, that similar operations permitted in Delaware are required to operate with slight negative air pressure in processing buildings and all exhaust ventilation is required to be treated for odor control.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicants 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 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, based on comments received from the Office of the State Fire Marshal, that they have no objection to the proposed rezoning, and that they will require site and building plan information when available.

The Commission found, based on comments received from the Department of Agriculture Division of Resource Management, that the Department urges the approval of the application due to its relevance and importance to commercial agriculture in Sussex County, that the applicants have already shown a sizable financial commitment in the County, that the facility will allow the applicants to lower production costs making them more competitive and making Sussex County an ideal location for long-term agricultural production, that Allen Foods should be willing to meet all requirements that the County and the State may impose on the facility which would ultimately result in the protection of the environment and the residents of Harbeson, that approving the plant will not only benefit Allen Foods, but will assist in the

preservation of Delaware's farmland and poultry industry, and that the Department supports the facility as long as it benefits agriculture in Delaware and adequately meets all environmental standards set by the State DNREC.

The Commission found, based on comments received from the Office of the Director of the DNREC Division of Water Resources, that the Division has been in contact with the company to make sure that it receives a complete and comprehensive review to meet all the Department's regulatory concerns, that the environmental compliance record of the prior owners of the existing processing plant was quite dismal, that during the two decades of poor environmental track records by previous owners the major concern with the ownership was a lack of commitment to proper operation, maintenance, and management of their wastewater facilities, that the Department was convinced that the problems were mostly related to the lack of commitment, not the age or design flaws of the facility, that when Allen Family Foods took over the ownership of the plant their management approach was to work with DNREC to determine how to operate the facility to avoid problems in the short term, that the company has shown an interest in making major capital improvements to accommodate future needs, that the very same facility that was probably the Departments most chronic violator under previous ownership became one whose track record has been virtually spotless for several years, and that Allen Family Food's commitment to environmental protection at their Harbeson site is most commendable and is relevant to consideration.

The Commission found that 3 letters in opposition were received which referenced that the parcel is currently zoned AR-1 as is the majority of the lands in the area, that properties were purchased since they were zoned agricultural residential, that the rezoning would change the character of the area and could create a precedent for additional application for commercial and industrial uses, that the applicants purchased the property with the knowledge that the zoning was agricultural residential, that the intended use will have a negative impact on the area, that the existing use, owned by the applicants on the neighboring property, has caused odors that were sickening and still exist at times, heavy traffic, trucks that have to make turns into oncoming traffic, cemetery fencing being knocked down by poultry trucks, high nitrates in drinking water, fear of increased traffic, ground water contamination, air pollution, failure of the applicants to respond to questions on excess use of Chlorine plus by products that will either be dumped into a lagoon that flows into a stream that seeps into the aquifer or will be sprayed on fields near Milton and will then seep into the aquifer, questioning the need to rezone 35 acres when a minimal area will be utilized for the plant, questioning the benefit of constructing a new plant when only 30 to 40 jobs will be

created, questioning if the new plant will depreciate property values, and recommending denial of the application.

The Commission found that the application was represented by a family representative of the company, a consultant, representatives of manufacturers of processing equipment, representatives of odor abatement equipment, and an appraiser.

The Commission found, that the applicants submitted a packet of information which included a copy of the deed to the property, a site plan, an excerpt from the County Tax Map, a service level evaluation request form, a copy of the DelDOT Support Facilities Report for the site, a copy of a news article referencing a public meeting held in the Harbeson Community Hall, a copy of a letter from the DNREC Division of Air and Waste Management - Air Resources Section, a excerpt from the National Wetlands Inventory Map depicting the area, a copy of Figure 2-4 from the Coastal Sussex Land Use Plan referencing Wetlands and Timberlands, a copy of Figure 2-5 from the Coastal Sussex Land Use Plan referencing Agricultural Lands, a copy of Figure 2-8 from the Coastal Sussex Land Use Plan referencing Historic Sites, a copy of a letter from the DNREC Division of Water Resources Pollution Control Branch, a 1989-1990 listing of the top 50 employers for Sussex County which included Allen Family Foods, a breakdown of number of employees and taxation for the Harbeson Facility for 1992, a copy of a news article entitled "Poultry Big Business on Delmarva", and a copy of a letter from the Department of Agriculture Division of Resource Management offering support for the application.

The Commission found that the applicants placed into the record a copy of the letter from the Director of the DNREC Division of Water Resources.

The Commission found, based on presentations made by representatives of the application, that the applicants intend to utilize the site for an Industrial use, that 2 railroad crossing are proposed to connect the existing industrial site with the application site rather than create a new entrance off of Route 5, that the proposed building will be a 22,000 square foot pre-cast concrete structure, that there is no intent to utilize the two existing access points on Route 5 for ingress/egress to the plant site, that 26 additional truck trips are anticipated per week after completion of the plant, that the proposed plant is a part of major site improvements to the existing use, that contact with the State DNREC indicates that the track record of the company is virtually spotless since the business was taken over by the applicants and that it is attributed directly to the environmental commitment from the management of the facility, that the applicants propose to build a berm along the residential properties along Route 5, that

the project is designed that all activities are performed within a completely enclosed structure, that the use will conform to all clean air requirements, that the existing facility presently exceed any requirement of the State DNREC, that no discharges of Chlorine exist on the site, that sludge from the existing site is presently spread at a site north of Route 16 and east of Route 30 near Milton, that references to sludge being spread near Ellendale is erroneous, that no State or Federal Wetlands exist on the site, that no prime agricultural land exist on the site, that no historical sites exist on the site, that no concerns exist for water availability based on the Coastal Sussex Land Use Plan, that no threat is intended on water supply, that the project will add an additional 30 to 40 employees to the present 763 employees that work at the existing site, that the company is a family run business which has been in operation since 1919, that the existing processing plant on the adjacent property was purchased in 1988, that one of the problems at the existing site is the non-competitive facility compared to other national facilities, that wastewater was a concern when purchased, that the facility had had constant violations prior to purchase, that concerns have been expressed about trucks, truck safety, and noise, that since the company took over the facility no violations and no fines have been imposed by DNREC, that this site is economically the best site over other Allen sites for the proposed improvements, and that presently all by-products are sent to rendering facilities elsewhere and then purchased back for feeds.

The Commission found that a video tape, viewed for approximately 20 minutes long, provided a tour view of a similar plant facility as the proposed plant. The plant and related machinery were described by a representative of a manufacturer of processing machinery.

The Commission found that a representative of a manufacturer of odor abatement systems advised that his company provides air treatment facilities for rendering facilities, that approximately 220 protein recovery facilities exist in the United States, and that the company is willing to test water from scrubbers from any operating protein recovery plant to verify the lack of contaminants.

The Commission found that a certified Delaware appraiser stated that he had reviewed the site for any negative impacts on properties in the area, that he considered the location, noise, smell, and environmental concerns, that he had reviewed the site twice and the proposed site plan, that the location of the proposed building and the placement of a berm along residential properties should create no negative impact on the neighboring areas, that he has determined that if the building is totally enclosed there should

be no noise or odors, that the intended use will enhance the existing facilities, that the Harbeson area is stable and growing, that real estate sales have continued since the company purchased the existing plant and the application site, that the original odor problem did impact values, and that the track record of the applicant indicates no negative impact on the real estate market of the Harbeson area.

The Commission found, based on comments made by representatives on behalf of the application, that the rezoning is needed for expansion of Sussex County agricultural business, that the rezoning is in keeping with the purpose of the HI-1 Heavy Industrial District, that the use is appropriate to the Coastal Sussex Land Use Plan as the plan relates to agriculture, that the use will protect the inland bays since discharges exceed any regulations that affect the inland bays, that the use will be in keeping with land use trends in the area, that a berm, 6 to 8 feet high, is proposed with landscaping, that the plant will utilize an area of approximately 5 acres, that there are no immediate plans for the residual acreage, that the crossovers from the railroad have not yet been obtained, that there are no immediate plans for the existing stables and other accessory buildings on the site, that the existing pasture fencing will be removed, that no hazardous materials are on the site, that security will be provided from the existing plant, that rendering products will not be brought in from outside companies, only Allen Family Foods facilities, that presently raw materials are trucked 3 or 4 times per day, that it is the company's intent to truck the raw material from the processing plant directly to the protein recovery plant, that trucking is proposed since scale weights can be utilized to track the amount of material processed, that the number of birds handled per day may increase within the next 5 years at a minimum, that the existing plant works 2 eight hour production shifts and 1 cleanup shift, and that the building height should not exceed 30 feet, excluding stacks, vents, and air vents.

The Commission found that an attorney and nine (9) people spoke on behalf of all the people present in opposition.

The Commission found that a video tape, viewed for approximately 20 minutes, was provided by the opposition which described the area, made reference to truck traffic, drainage, pollution, litter, the impact on the retirement community, the impact on family homes which adjoin the plant site, entrance problems along Route 5, and exhibiting a Delmar site, owned by the applicants, which was suggested to be more appropriate for the intended use since a lesser number of residential properties are impacted. The video tape was narrated by a Harbeson resident.

The Commission found that a petition in opposition to the application was submitted which contained approximately 265 signatures.

The Commission found that a video tape from a Chemist was viewed which referenced Chlorine containing organic materials and the possible harmful effects.

The Commission found that a chart map was submitted with 18 pictures reflecting the existing site, residences in the area, truck traffic, trucks crossing the centerline of Route 5 to turn into the site, damages to the cemetery wall, trash, paper and human waste on the ground near the existing plant, industrial debris, trees in a lagoon, stagnant water, chemical signs, and outflow pipes.

The Commission found that three consumer education guides were submitted for review. The guides were titled "Organic Chemicals in Drinking Water", Well-head Protection - A Decision-Makers Guide", and "Citizen's Guide to Ground-Water Protection". All three were EPA documents.

The Commission found that the people who spoke in opposition expressed concerns in reference to water quality, that water quality must be maintained, that the Columbia Aquifer flows southeast in the direction of the residences in Harbeson, chemical uses, that all wells in the area or domestic wells, that a heavy industry should not be in a well protection area, that contamination of the wells impacts the individual homeowners since no central water is provided to the area, that heavy industry uses degreasers, oils, chemicals, industrial cleaners, that nitrates have already been reported in area well test, that children may get into polluted streams, that the rendering plant will create more employees, more traffic, more effluent than all the septic systems in the area, that the past use of the site, the horse farm, contributed to the area, that a rendering plant does not contribute anything to the area, odors, children safety, debris and leaking fluids (blood) from trucks from the site, spillage of rendering products on roadways.

The Commission found that 6 photographs were submitted of a rendering product spill which took place at Gravel Hill on March 22, 1993.

The Commission found, based on additional comments made by those in opposition, that Allen Family foods representatives admit that poultry plants devalue property values, that the expansion will not improve values, that the applicants own hundreds of acres of land, that other sites owned by the applicants would be more appropriate than the Harbeson site, that the applicants only

intend to utilize 5 acres, why rezone 35 acres, questioning the long range plans for the site, that the pictures of the area speak for themselves, that the pictures of human waste on the ground should defeat the application, that the State DNREC has not enforced the laws, that the pictures show that the law has not been enforced, that the function of the County is to protect the citizens of Harbeson, that the citizens of Harbeson deserve better from the government, that the track record of Allen Family foods, Inc. does not warrant an approval, and that the application should be denied.

Motion by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to defer action.

III. OTHER BUSINESS

1. RE: Frances H. & Sandra Prettyman

The Commission reviewed a concept to create 4 lots on Route 9 west of Harbeson.

Mr. Abbott advised the Commission that this is before them since the lots are located on a major arterial roadway and that the entrance plan has been approved by the Department of Transportation.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve this concept.

2. RE: Rehoboth Shores

The Commission reviewed the final site plan for Phase 2 of Rehoboth Shores manufactured home park.

Mr. Abbott advised the Commission that the plan meets the requirements of the zoning code, that all required agency approvals and permits have been received, and that a central water system will be used.

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

3. RE: Fenwick Floaters

The Commission reviewed a commercial site plan for retail sales and a multi family dwelling on Route 54.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code and the stipulations that were imposed by the County Council have been met, and that the required agency approvals have been obtained.

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

IV. OLD BUSINESS

1. RE: C/U #1033--John J. Marsh

Mr. Lank advised the Commission that this application has been withdrawn.

2. RE: Subd. #90-1--Thetavest, Inc.

Mr. Abbott advised the Commission that this item has been removed from the agenda at the request of the designer and will be rescheduled at a later meeting.

3. RE: Subd. #93-1--College Fund, Inc.

No one was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in cedar Creek Hundred by dividing 48 acres into 71 lots, located on the north side of Route 38, 1,120 feet east of Route 228A, and the east side of Route 228, 920 feet north of Route 38.

Mr. Abbott advised the Commission that the Sussex Conservation District, Sussex County Engineering Department and DelDOT have approved the drainage concept for this subdivision, that a lot has been deleted and revised for a recreation area, and that the developers have shown a thirty foot setback from the rear property line adjoining the existing manufactured homes.

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

4. RE: Subd. #93-3--Wheatley Farms, Inc.

No one was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred by dividing 30.10 acres into 47 lots, located on the south side of Route 545, 425 feet west of Route 594.

Mr. Abbott advised the Commission that the developer is going to use a central community wastewater disposal system for the lots located in the Conservation Zone and may use individual septic systems for the lots that are not in the Conservation Zone.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary with the stipulation that a community wastewater disposal system be utilized for all 47 lots.

5. RE: Subd. #92-10--Trotters Run

Mr. Allen advised the Commission that he has reviewed the plan and feels that more recreation area should be created even though none is required for subdivisions because of the location being next to a campground and concerns about trespassing, and stated that he would like to hear from the designer or owner about this.

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

6. RE: Subd. 90-26--George Adams, Jr.

Mr. Abbott advised the Commission that a one year time extension has been requested due to the economy and not being able to obtain necessary agency approvals.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve a one year time extension with the stipulation that this be the last time extension granted.

Meeting adjourned at 12:00 AM