

MINUTES OF THE REGULAR MEETING OF MARCH 26, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 26, 1992, at 7:30 PM in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the minutes of March 12, 1992, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1154 -- Frank Marino

Frank Marino and Donald Miller, Surveyor, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broad Creek Hundred, located 300 feet east of Route 13, 900 feet north of Route 462, to be located on a parcel containing 1.43 acres more or less.

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

Mr. Marino and Mr. Miller advised the Commission that the rezoning will be an extension to an existing C-1 General Commercial District, that the intent is to develop the parcel with the existing land with a retail outlet, that the water and sewer may be made available through the Town of Laurel, that entrance plans have been submitted to DelDOT and that tentative approval has been granted, that stormwater management plans are being prepared, that the existing parcels are zoned LI-2 Light Industrial and C-1 General Commercial, that no Federal 404 wetlands exist on the site, that no residences exist within 200 feet of the site, that commercial activities exist immediately to the south and within close proximity to the north, and that the parcel was purchased along with the C-1 lands from the same owner.

No parties were 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.

The Commission found, based on comments received from the State DelDOT, that a traffic impact study was not recommended and that the level of service "A" of Route 462 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped to be 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 in reference to erosion and sedimentation control may require the developer to follow an erosion and sediment plan during construction, that after completion of any construction the owner developer shall be required to maintain a vegetative cover, that the farmland rating of the soil type, as mapped, is of statewide importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found that the applicant and a surveyor were present and that the applicant plans to utilize the site for a retail outlet.

The Commission found, based on comments made by the representatives of the application, that the rezoning will be an extension of an existing C-1 General Commercial District, that water and sewer service may be provided by the Town of Laurel, that entrance plans have been submitted to DelDOT and that tentative approval has been granted, that stormwater management plans are now being prepared, that the parcel is proposed to be developed with two adjoining parcels as one project, that the two adjoining parcels are zoned LI-2 Light Industrial and C-1 General Commercial, that no Federal 404 wetlands exist on the site, that no residences exist within 200 feet of the site, that commercial activities exist to the south and within close proximity to the north, and that the parcel was purchased along with the existing C-1 General Commercial parcel from the same owner.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, 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 since commercial activities exist in the immediate area and since the rezoning is an extension of the commercial district on the same parcel.

2. RE: C/Z #1155 -- Bruce & Mina Malloy

Bruce Malloy and Carol Campbell, a Realtor, were present on behalf of this application to amend the zoning map from MR Medium Density Residential to GR General Residential in Broadkill Hundred, located on the east side of Route 240, 4,000 feet south of Route 16, to be located on a parcel containing 5.50 acres more or less.

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

Mr. Lank advised the Commission that the public notice required to be posted on the parcel may have been located incorrectly on another parcel south of the site.

Mr. Bayard asked those in attendance if anyone was present to oppose this application.

No parties were present in opposition.

Mr. Bayard advised the Commission that if the application proceeds and a decision is made, and if the decision is challenged, the decision may be difficult to represent.

Mr. Malloy stated that he understood the situation and that he wished to proceed with this application.

Mr. Lank advised the Commission that he would investigate the posting of the site. Mr. Lank added that some postings have been moved by individuals after being correctly posted.

Mr. Malloy stated that he has no intention of subdividing the parcels, that he had wished to place a manufactured home on the parcel and could not since it was zoned MR Medium Density Residential, that he is now interested in selling the property and that several people interested in purchasing the parcel have wanted to place a manufactured home on the site, that the site is vacant woodland, that the site is adjacent to a manufactured home park, and that Route 240 is a dirt road.

Mr. Lank advised the Commission that the adjoining Manufactured Home Park is in violation and was being litigated by Mr. Peter B. Jones, Esquire, on behalf of the County. The status of the litigation will be researched.

Mr. Lank advised the Commission that land owners within 200 feet of the site were notified.

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 State 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 on site are mapped to be Pocomoke sandy loam and Woodstown sandy loam, that the suitability of the soils for the intended use may have severe limitations in the Pocomoke soils do to wetness if not adequately drained and slight to moderate limitations in the Woodstown soils, that the evaluation of the soils with respect to erosion and sediment control may require the owner to follow an erosion and sediment control plan during construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soil type as mapped are of statewide importance, that no storm flood hazard area or tax ditch is affected, that it may be necessary for some off-site and on-site drainage improvements.

The Commission found that the applicant and a Realtor were present on behalf of this application and that the applicant intends for the parcel to be utilized for a manufactured home.

The Commission found, based on comments made by the applicant that he has no intent to subdivide the parcels, that he had wished to place a manufactured home on the parcel but could not since the site is zoned MR Medium Density Residential, that he is now interested in selling the property and that people interested in purchasing the parcel have wanted to place a manufactured home on the site, that the site is vacant woodland, that the site is adjacent to a manufactured home park, and that Route 240 is a dirt road.

Motion by Mr. Smith, 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 since the predominant residential use in the area is manufactured homes, since the site is on a dirt road, since no negative impact is anticipated on the neighborhood or traffic, and since the rezoning is not inconsistent with the neighborhood.

3. RE: C/Z #1156 -- John E. Schade, et ux
William B. Warrington, et ux

John Schade and William Warrington, developers, John Sergovic, Esquire, and John Gigliotti, an Environmental Consultant, were present on behalf of this application to amend the zoning map from MR Medium Density Residential to HR-2 High Density Residential in Baltimore Hundred, located on the west side of Route One, one mile north of Fenwick Island, to be located on a parcel containing 6.35 acres more or less.

Mr. Lank summarized comments received from the State DelDOT, the Sussex Conservation District, the Office of the Secretary of the State DNREC for land use review and coordination, the DNREC Pollution Control Branch, the DNREC Wetlands and Aquatic Protection Branch, the DNREC Division of Parks and Recreation, and the DNREC Water Supply Branch.

Mr. Sergovic advised the Commission that the developers have owned the property for approximately 5 years, that the HR-2 High Density Residential rezoning has been requested to conform to the uses in the area, that County Engineering limits the site to 19 EDU for sewer capacity, that the project complies with the purpose of the HR-1/HR-2 High Density Residential District, that the site is adjacent to a similiar project with High Density Residential zoning, that the wetlands area is not being considered for rezoning, that all units proposed are upland of any Federal 404 wetlands or State wetlands, that the neighboring area consist of MR Medium Density Residential and HR High Density Residential uses, that a significant area of open space exist on State lands, that the predominant residential use in the immediate area is multi-family, that electrical service will be supplied by Delmarva Power and Light Company, that no negative impact is anticipated on traffic, that no negative impact is anticipated on the Indian River School District, that the project should create a positive impact on the school district due to increases in the tax base, that the Bethany Beach Volunteer Fire Company has no objection to the rezoning, that an appraisal of the property indicates that the rezoning will have no detrimental effect on property values, that the site is located within the proposed Fenwick Island Water District, and that a private water supply will be necessary if the proposed district is rejected.

Mr. Gigliotti advised the Commission that wetland areas have been determined and flagged, that he is waiting for the U.S. Army Corp. of Engineers to verify the determination, that all buildings and parking areas are to be located on upland areas, and that since the soils are slightly erodible erosion and sedimentation control techniques can protect the site.

Mr. Schade advised the Commission that the buildings will be designed as townhomes with condominium type sales, that the project will not exceed the maximum 19 units allowed by the EDU's established by County Engineering, that the units will be built in similiar design as Kings Grant Condominium on the adjoining parcel, that the developers have no intent to disturb the wetlands, that townhomes are the most economically feasible use of the property, that the highest and best use of the site is multi-family due to the similiar construction adjoining, and that as a developer of the site he supports the proposed water district.

Mr. Magee questioned the proposed setbacks from federal wetlands.

Mr. Sergovic advised the Commission that all proposed construction will be on uplands.

Mr. Magee questioned if dry hydrants will be installed on the site.

Mr. Schade stated that dry hydrants will be installed if requested by the Bethany Beach Volunteer Fire Company.

Mr. Bayard questioned the proposed density.

Mr. Schade stated that 3 units per acre are proposed.

Mr. Bayard questioned if the wetlands will become a part of the common elements of a condominium restrictions and if maintenance provisions will be provided.

Mr. Schade answered yes to both questions.

Mr. Bayard questioned if the project can be built without variances.

Mr. Lank advised the Commission and the developer of the required setbacks.

Mr. Schade stated that he felt that the project could be built without variances.

Mr. Allen questioned the proposed height of the units.

Mr. Schade stated that the units will not exceed 35 feet in height.

Mr. Lank advised the Commission and the developer of the requirement for a maximum building length of 165 feet.

Mr. Schade stated that a variance may be necessary for building length.

Pat Ficken, representing the Coalition of Coastal Communities, and Fred Wetselberger, a property owner in Seatowne, spoke in opposition and expressed concerns in reference to entrances on Route One, salt water intrusion, building too close to wetlands, increases in cost for the proposed Fenwick Island Water District, the need for additional parking for guest, use of wetlands acreage, questioning if any docking facilities are proposed, and questioning the need for additional units.

Mr. Wetselberger also added that Seatowne is zoned HR-2 High Density Residential, but it was developed with single family detached dwellings.

Mr. Lank read two (2) letters in opposition from Robert J. Gage, a resident of Chevy Chase, Maryland, and a condominium unit owner in King's Grant, and Marguerite E. Fowler, a resident of Washington, D.C., and a condominium unit owner in Queen's Quest.

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

4. RE: Subdiv. #92-3--Dogwood Estates Joint Venture

Bake Timmons, developer and Don Miller, surveyor were present on behalf of the application of Dogwood Estates Joint Venture to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 34.03 acres into 25 lots, located on the north side of Route 26, 210 feet west of Route 327. The proposed title is the Waverly.

Mr. Abbott summarized the Technical Advisory Committee Report of March 23, 1992, in reference to this application.

Mr. Abbott summarized additional comments received from the State DNREC Wetlands and Aquatic Protection Branch and the State DNREC Division of Parks and Recreation in reference to this application.

Mr. Timmons stated that he intends to establish a 50 foot buffer zone adjacent to existing agricultural lands and that the buffer will be landscaped per the recommendations of the State Department of Agriculture, that the lots are close to one acre in size, that there will be restrictions for dwelling sizes with attached garages, and that he will abide by the recommendations of the Technical Advisory Committee.

There was no one present in support of this application.

Joe Calhoun, an adjoining land owner, expressed concerns about property owners complaints against his farming operation of poultry and hogs, establishing a 50 foot buffer zone between the developement and agricultural lands, the "right to farm" law and his protection from being put out of business.

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

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

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

5. RE: Subd. #92-4--Thomas Head

Vern Kelly of Coast Survey, Inc. was present on behalf of the application of Thomas Head to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 9.59 acres into 3 lots, located on the north side of Route 277, and as an extension to Willow Lane in the Willows Subdivision. The proposed title is The Willows Section III.

Mr. Abbott summarized the Technical Advisory Committee Report of March 23, 1992, in reference to this application.

Mr. Abbott summarized additional comments received from the State DNREC Wetlands and Aquatic Protection Branch and the State DNREC Division of Parks and Recreation in reference to this application.

Mr. Kelly stated that the proposed site is the area designated as future developement from the previous recorded sections of the Willows, that the size of the lots are large due to the soils mapped on site, that the existing road would be extended approximately 450 feet, that a septic feasibility report is being submitted to DNREC and that the site is an open field with fallow cover.

Mr. Kelly advised the Commission that if approved, there would not be any resubdivision of this property.

Thomas Head, the owner, advised the Commission that the adjacent property is residential.

No one was present in opposition to this application.

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

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

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

III. OTHER BUSINESS

1. RE: Schooner Village @ The Salt Pond Multi-Family Site Plan

The Commission reviewed a site plan for a multi-family project consisting of 54 units in Phase I of the Salt Pond.

Mr. Abbott advised the Commission that this project received preliminary approval on February 27, 1992, that the site plan has not changed, that the site plan complies with the zoning code and that agency approvals have been received.

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

2. RE: Harry F. Wilgus, II lot on right of way Route 381A

Mr. Abbott advised the Commission that this is the same request that was deferred at the February 27, 1992 meeting.

Mr. Abbott advised the Commission that Mr. Wilgus wishes to create a one acre parcel with access from a fifty foot right off of an existing ten foot right of way off of Route 381A.

Mr. Magee advised the Commission that the only access to Mr. Wilgus's property is from the existing ten foot right of way.

Christine Bauer, an adjacent property owner spoke in opposition to this request due to requirements that she had to meet. Halton Johnson and Mr. and Mrs. Homer Dennis also spoke in opposition to the request due to legal title of the existing ten foot right of way.

Mr. Wilgus advised the Commission that he maintains the ten foot right of way.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried 4 votes to 1, with Mr. Allen opposed, to approve the request as submitted.

IV. OLD BUSINESS

1. RE: C/U #996 -- Ronald E. Lankford

Mr. Lank introduced the application of Ronald E. Lankford, which has been deferred since February 12, 1992, to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for a Family Amusement Park lying on the northwest side of Route 271, 600 feet northeast of Route One and to be located on a parcel containing 96.4 acres more or less.

Mr. Lank, noted that the Commission had received the findings of facts from the Commission's public hearing as reported to the Sussex County Council. A copy of the findings are attached as Exhibit "A".

Mr. Magee stated that he has never seen the Department of Transportation submit such negative comments.

Motion made by Mr. Magee to forward this application to the Sussex County Council with the recommendation that it be denied due to the close proximity to residential areas (331 lots), DelDOT concerns in reference to increases in traffic, concerns of sewer service, and hours of operation due to concerns for nearly residents.

Mr. Magee's motion died for the lack of a second.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried 4 votes to 1 with Mr. Magee opposed to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Nothing shall be built that exceeds 35 feet in height.
2. The developer shall provide its own ingress/egress.
3. Rollercoaster wheels and tracks shall be teflon coated.
4. The hours of operation shall be from 10:00 AM to 10:00 PM.

5. A 70 foot wide buffer shall be provided around the entire outer limits of the project.

2. RE: C/Z #1153 -- Sea Colony, Inc.

Mr. Lank introduced the application of Sea Colony, Inc., which has been deferred since March 12, 1992, to amend the zoning map from MR Medium Density Residential to HR-1/RPC High Density Residential/Residential Planned Community in Baltimore Hundred, located on the west side of Route 361, 1/4 mile south of Route 26, to be located on a parcel containing 104.59 acres more or less.

Mr. Lank noted that the Commission had received, by mail, the finding of facts from the Commission for the March 12, 1992 public hearing on this application. A copy of the findings are attached as Exhibit "B".

Motion made by Mr. Magee to forward this application to the Sussex County Council with the recommendation that it be approved with the thirteen (13) proposed conditions as suggested by representatives of Sea Colony, Inc. and the following:

1. Sea Colony shall work with the Office of the State Fire Marshal and the Bethany Beach Volunteer Fire Company for dry hydrant installations, if desired by the Office of the State Fire Marshal and/or the Bethany Beach Volunteer Fire Company.

2. The development should be reduced to 632 units for a similiar density to the single family residential lots around the site in Bethany Beach. Typical lots contain approximately 7,000 square feet per lot.

Mr. Ralph stated that he had no problem with the number of units proposed by the developer.

Mr. Allen agreed with Mr. Ralph's statement and added that Randall Arendt had reviewed the concept and had made statements during a public session and in newspaper statements that the plan is a complete plan with open space, cluster housing, sufficient amenities and street design, and that if the project is developed as well as past phases in Sea Colony West the project should be acceptable.

Mr. Magee's motion died for the lack of a second.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried 4 votes to 1, with Mr. Magee opposed, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The Maximum number of units shall not exceed 832.
2. A non-disturbance buffer shall be provided along the northern boundary of 70 feet.
3. A non-disturbance buffer shall be provided on the eastern boundary of property north of West Way Drive of 50 feet.
4. Road improvements or contribution in lieu of shall be completed by the developer per requirements of DelDOT.
5. Greenway trail improvements along the Assawoman Canal shall be completed by the developer per standards established and mutually agreed upon by the developer and the Division of Parks and Recreation of DNREC.
6. The development shall be a part of the County Sewer District and the design shall be as approved by the Sussex County Engineering Department.
7. Central water shall be provided by meeting regulations of DNREC, the Office of the State Fire Marshal, and the Division of Public Health.
8. Stormwater management and erosion control shall comply with all State and County Regulators.
9. No additional lands outside of the existing Sea Colony holdings and the area shown on the site plans for this application shall be annexed into the Sea Colony Developments.
10. The developer agrees to build one tennis court for every 65 dwelling units constructed along with required parking.
11. The developer agrees to build one swimming pool with appropriate support facilities and required parking for every 200 dwelling units constructed.
12. The developer is working with the Sea Colony Recreation Association and has committed to the joint development of a new 4 court indoor facility at the location of the existing tennis bubble. The developer will:

1. Build one additional court at the current indoor tennis bubble location being the 4th court in the structure (3 courts exist). The Court shall be in addition to the 13 tennis courts stated in paragraph 10 herein.
 2. Pay to modify the parking areas around the new tennis structure.
 3. Make a cash contribution to the Recreation Association at the time of settlement of a new unit in an amount previously agreed to between the developer and the Recreation Association.
13. The current plan reflects an accumulation of tennis courts at the end of West Way which the developer intends to build during the project as provided in paragraph 10. The developer has been working with the Sea Colony Recreation Association on the eventual location of these courts. It has been determined that six courts may be located adjacent to and north of the new indoor tennis structure. The balance of the tennis courts and their specific location will be determined at a later point.
14. Sea Colony shall work with the Office of the State Fire Marshal and the Bethany Beach Volunteer Fire Company for dry hydrants installations if desired by the Office of the State Fire Marshal and/or Bethany Beach Volunteer Fire Company.
3. Subd. #91-12--W.G.C. III Development
- Mr. Abbott advised the Commission that this subdivision received preliminary approval April 28, 1991, and that the engineering firm is requesting a 1 year time extension to receive final approval.
- Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to grant a 1 year time extension.
4. RE: Subd. #90-40--Raymond L. Banks, Jr.

Don Miller, surveyor was present on behalf of the application of Raymond L. Banks, Jr. to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 16.19 acres into 24 lots, located on the north side of Route 382, 800 feet east of Route 340, and on the east side of Route 340, 500 feet north of Route 382.

Mr. Abbott advised the Commission that this subdivision received preliminary approval on January 24, 1991 and received a 1 year time extension on January 23, 1992.

Mr. Abbott advised the Commission that all required agency approvals and permits have been received, that the final record plan is the same as the preliminary approval, and that the record plan is in compliance with the Subdivision Code of Sussex County.

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

5. RE: Subd. #91-23-- Robert Hickman & Robert Durham

Don Miller, surveyor was present on behalf of the application of Robert Hickman and Robert Durham to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 33.55 acres into 26 lots, and a variance from the allowed 600 foot maximum cul-de-sac length, located on the western side of Route 447, 635 feet south of Route 446, and on the northern side of Route 74, 860 feet west of Route 447.

Mr. Abbott advised the Commission that this subdivision received preliminary approval on January 23, 1992.

Mr. Abbott advised the Commission that the final record plan is the same as the preliminary approval, that all required agency approvals and permits have been received, and that the final record plan is in compliance with the Subdivision Code of Sussex County.

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

6. RE: Natural Lands Trust Contract

Mr. Lank advised the Commission that Randall Arendt has requested a meeting for April 30, 1992 to present the first draft of a proposal on greenways and open space.

It was the consensus of the Commission that they meet at 7:30 PM on April 30, 1992 with Mr. Arendt.

Meeting adjourned at 10:30 PM.

The Commission found, based on comments received from the Technical Advisory Committee, that the DNREC Solid Waste Management Branch advised that Delaware Regulations prohibit the burial of construction/demolition debris, including trees and stumps, except at solid waste disposal facilities that have a permit or approval from the Department, and that the Solid Waste Management Branch encourages recycling whenever feasible; that the DNREC Pollution Control Branch advised that the office has no objection to the rezoning, that the applicant must control activities to minimize sediment and erosion impacts, that construction activities that disturb five (5) acres or more must comply with Federal requirements, that wastewater disposal will be serviced by the South Coastal Regional Sewer System, and that state construction permits must be obtained from the Division of Water Resources through the County Engineering Department with appropriate fees; that the DNREC Water Supply Branch advises that since the applicants propose to extend water from an existing private central water system the applicants need to contact the Division about the possible need for obtaining a Certificate of Public Convenience and Necessity to extend water service; that the Soil Evaluation Group of the Underground Discharges Branch advised that since wastewater disposal is proposed to be via the County sewer system the office has no comment; that DelDOT advises that they have had several meetings with the developers on traffic impact studies and off site improvements and that they are currently working on an agreement for the off site improvements; that the County Engineering Department advises that County Ordinance NO. 657 requires review and approval of private water and wastewater systems, that a wetlands delineation shall be required to be performed by a qualified professional to verify the accuracy of the mapped delineation, that the plans should note plans for disposal of large quantities of debris located on the site, and that the South Coastal Area Planning Study indicates that the only available capacity to service the proposal is contained within the 15 inch gravity sewer line on the adjacent Fairways Drive and that sanitary sewer connections will only be available at that location; that the Soil Conservation Service provided a soil interpretation based on the Sussex County Soil Survey; that the Sussex Conservation District advised that no construction including clearing, filling, grading, or similiar activity may take place until a sediment control and stormwater management plan is approved, that a note shall be required on the plan indicating who is responsible for maintenance of roads, that review and inspection fees shall be submitted with plans, that maintenance responsibility of all stormwater management facilities should be determined during planning stages and noted on both record plats and stormwater management plans; and that the Office of the State Fire Marshal advises that since the project will be serviced by a central water supply system State requirements must be met, that a hydrant system capable of allowing fire department use must be included as a part of the system with appropriate hydrant sizes, flow capacities and

pressures per State requirements, that street widths must be maintained to insure fire department accessibility to the units, that appropriate width cul-de-sacs shall be provided that fire department apparatus may be turned around with only one backing maneuver, that site plans with appropriate applications and fees must be submitted to the department for review and approval, and that all building plans must be approved by the department.

The Commission found, based on comments received from DelDOT, that it has completed its review of a traffic impact study prepared by Greenhorne and O'Mara, Inc., that the study was prepared in accordance with department regulations, that the study addresses the impact of the project on five intersections: Routes One and 26; Routes 361 and 361A; Routes 26 and 361; Route 361 and West Way; and Route 361 and the north site access, that capacity improvements are recommended for the intersections of Routes One and 26 and Routes 26 and 361, that a left turn lane from Route 361 onto Route 361A is warranted, that the Department plans to improve Route 26 between the Assawoman Canal and Route One, that the road project is expected to be designed this year and built the following year, that the Department has asked the developer to cost estimate the Route 26 improvements recommended by the traffic impact study, and that the developer will be expected to participate by that amount estimated in the road project, that should the rezoning be approved additional more detailed engineering analyses concerning entrance locations will be required, and that DelDOT's acceptance of the traffic impact study in no way constitutes acceptance of the site plan or the number of entrance locations.

The Commission found, based on comments recieved from the Division of Parks and Recreation, that the Division owns the right of way of the Assawoman Canal, that the Division is considering creation of a pedestrian/bicycle pathway that would link developments adjacent to the Canal, that the Division and Sea Colony have been working together to study a path system, that the Division has agreed to allow Sea Colony to design, engineer and develop a pathway on Division lands in conjunction with Sea Colony West development, that the 4,000 feet canal pathway will link to the extensive pathway system in Sea Colony West, that the canal pathway will be open to the public and accessible by foot or bicycle through Sea Colony, that the Division will pursue further linkages from Route 26 south to Route 361 and north of Route 26, and that the Division encourages the County to approve the rezoning request.

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

The Commission found that the DNREC Residuals Management Branch, formerly called the Solid Waste Management Branch, commented again with the same comment addressed in the Technical Advisory Committee report.

The Commission found, based on comments recieved from the DNREC Wetlands and Aquatic Protection Branch, that wetlands regulated by the State and the U.S. Army Corp. of Engineers appear to be within or adjacent to the area of proposed development, that any activity such as filling, dredging, crossing with a road or placement of a structure may require a permit from either or both agencies, that the Assawoman Canal is regulated by both the State and the U.S. Army Corp. of Engineers, that the extent of wetlands should be identified on the site plan, that stormwater management facilities should be implemented to prevent surface water run-off from directly entering adjacent wetlands and waterways and should be designed to manage both water quantity and quality parameters, that site specific wetland values and functions should be evaluated and alternatives to fill should be considered, that in order to reduce the likelihood of wetlands impacts and future wetlands violations property lines should not extend into wetlands, and that wetland areas can be dedicated as undisturbed community open space.

The Commission found, based on comments received from the DNREC Division of Fish and Wildlife, that the Division is aware of the presence of forested freshwater wetlands on the site, that the wetlands serve as a vital ecological function as wildlife habitat and that development should proceed with a minimal impact to these wetlands, that the Division recommends that a 100 foot buffer zone be established between the Assawoman Canal and the project, that this vegetative strip will serve to control soil erosion and to minimize fisheries impacts from runoff, and that the strip could be enhanced with wildlife plantings to attract wildlife.

The Commission found, based on comments received from the DNREC Office of the Secretary for Land Use Reivew and Coordination, that comments have been requested from the DNREC Division of Air and Waste Management-Waste Management Section and Solid Waste 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 Assessment Branch, Water Supply Branch, and Wetlands and Aquatic Protection Branch, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the DNREC Division of Parks and Recreation Natural Heritage Inventory, that the office has reviewed its database of Species of Special Concern for the site and are unaware of any rare plants, animals, or unique natural communities within the site, that the office recommends that the remainder of the forested area be left intact in order to better buffer the Assawoman Canal and to filtrate stormwater runoff, that issues of sewage disposal should be addressed with the knowledge that a number of rare species occur downstream of and along the canal, that numerous bird species use the canal for foraging, that a great diversity of species have been noted in close proximity to the proposed site, that due to similarities in habitat there is potential that these species exist on the site, and that the office welcomes the opportunity to conduct a thorough biological inventory of the site prior to any construction.

The Commission found, based on comments received from the DNREC Water Supply Branch, that Sea Colony is presently being served by four (4) existing public water wells, that it is likely that the wells will be able to produce the approximate 200,000 gallons per day additional flow estimated for the proposed project, that Sea Colony's Allocations permit will probably need to be revised, that salt water intrusion is and will be a major groundwater quality concern in the coastal area and that any increase in pumpage has a long term potential for causing or increasing the rate of saltwater intrusion.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped to be Rumford loamy sand, Fallsington sandy loam, and Pocomoke sandy loam, that the suitability of the Rumford soils for the intended use may vary from none to slight limitations, that the suitability of the Fallsington and Pocomoke soils for the intended use may have severe limitations due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sedimentation control may require the developer to follow an Erosion and Sediment Plan during construction and that slight limitations are anticipated after completion of construction, that the farmland rating of the mapped soil types are prime and of statewide importance, that no tax ditches are affected, that it may not be necessary for any off site drainage improvements, that it may be necessary for some on site drainage improvements, and that portions of the site may be located in an area of the 100 year flood based on Federal Emergency Management Agency FIRM maps.

The Commission found that 16 letters of support had been received from Daniel R. Masten, an owner of a townhouse in Bethany Proper; George L. Fluharty Inc., a masonry contractor; Land Design Inc., planning and development consultants; Solar Heating Inc., an electrical, heating and air conditioning contractor; Gulf Stream Design Group Inc., design and development consultants; Barton's Landscaping/Lawn Company Inc.; Simmons Cable TV; Kenneth Bennett Construction, a building contractor; Lord's Landscaping-Garden Center; Marvil Glass Company Inc.; Holiday House Restaurant; Phillips Sign Inc.; Denney Electric Supply; Lone Eagle Land Construction, an excavating contractor; Bunting & Murray Construction Corporation; and Duron Paints & Wallcoverings.

The Commission found that one letter was received in opposition which expressed concerns toward economic considerations, environmental issues, legal issues, and moral and spiritual issues.

The Commission found that the application was represented by a president of Sea Colony Inc., legal counsel, and an environmental consultant and that the developers propose to develop the site as a continuation of their multi-family project.

The Commission found, based on comments made by representatives of the application, that the Sea Colony project started in 1971 and has developed continuously with 7 phases in Sea Colony East and 13 phases presently in Sea Colony West with 1554 units to date, pools, tennis court facilities, an ocean beach, fitness centers, and other amenities; that each phase is a separate condominium project with a separate condominium association; that all phases are a part of the recreation association; that the application conforms to the purposes of the HR High Density Residential District and the RPC Residential Planned Community District of Chapter 115 of the Code of Sussex County; that the developers met with the DNREC Developer Advisory Service in October 1991 for preliminary input into the project prior to making an application; that the application conforms to the goals of the Coastal Sussex Land Use Plan; that the proposal is located in the Development District mapped in the Coastal Sussex Land Use Plan; that the proposal conforms to the land use map of the Coastal Sussex Land Use Plan, which designates the site in a multi-family residential area; that the site will be served by the Bethany Beach Sanitary Sewer District; that flow from the site will be sewered via Fairway Drive to the South Coastal Regional Waste Water Facility; that the South Coastal Regional Planning Study advises that ample capacity exist to handle both transmission and treatment; that the site will be served by an existing private water facility owned and operated by Sea Colony, Inc. and that the system will meet all requirements of the DNREC and the Office of the State Fire Marshal; that electrical service will be provided by

the Delmarva Power and Light Company; that telephone service will be provided by the Diamond State Telephone Company; that television cable service will be provided by Simmons Cable; that police protection is provided by the State Police, local police departments when needed, and by Sea Colony Security, which operates 24 hours a day 365 days per year with 15 full-time staff during the season and 8 full-time staff during the off season; that fire protection is provided by the Bethany Beach Volunteer Fire Department with Millville Fire Company as backup; that presently Sea Colony has 20 Condominium Councils with typical restriction declarations and codes; that wetlands have been mapped; that presently the area drains into ditches and then into the Assawoman Canal; that the development plan has several lakes to collect water for stormwater management; that the majority of the water will be retained on site; that discharge will be less than the existing drainage and will minimize sediment and nutrient loss; that salt water intrusion will be less likely since the lakes and ponds provide ground water recharge; that in reference to the Natural Heritage Program nothing was identified that was rare or endangered; that since the site will have central water and sewer there will be very limited impact on groundwater; that the minimization of discharges into the Assawoman Canal improves the site; that the project is proposed to be developed at eight (8) units per acre density; that the structures will include some veranda style duplex, some fourplex, and some 8 unit buildings; that the road system will link up with existing streets and roads within the existing complex; that the mixture of housing types reflects the market; that the duplex and fourplex units will have garages to provide additional open space; that clustering helps preserve open space; that additional paths and trails are proposed for walking, jogging, and biking; that sidewalks will tie into the path/trail system; that Sea Colony is working with the DNREC Division of Parks and Recreation to create a walkway along the Assawoman Canal and hope to see a linkage created from the Assawoman Bay to the Indian River Bay sometime in the near future for pedestrian traffic; that a 70 foot wide non-disturbed natural buffer is proposed along the existing developments to the north and northeast of the site; that additional trees and landscaping will be provided where needed for screening to reduce light glare from vehicles into neighboring yards; that a 50 foot wide buffer is proposed from the existing Sea Colony West Condominiums; that one (1) tennis court will be provided for each 65 units; that one (1) swimming pool will be provided for each 200 units; that the site plan provides for 16 acres of coverage by structures, 12 acres of parking and driveways, 10.5 acres of road right of ways, 2.8 acres of recreational amenities, 9 acres of lakes, and 54 acres of open space; that Sea Colony is working with DelDOT and will make whatever improvements that are necessary; that no negative impact is anticipated on the Indian River School District; that a positive impact is anticipated on the school district due to taxation;

that medical services are available at the Beebe Medical Clinic on Route 26 and at the Beebe Hospital in Lewes; that shopping areas are in close proximity in Bethany Beach, South Bethany, Millville, and Ocean View; that the development will increase the existing economic contribution by increases in payrolls, construction work and jobs, sewer fees, transfer taxes, and property taxes; that the proposed project should take 10 years to complete based on the past trend of development of Sea Colony; that recreation areas will be phased as units are built; that no negative environmental impacts are anticipated; that no negative impacts are anticipated on traffic; that the developers will work with the Office of the State Fire Marshal and the local fire companies to establish dry hydrants into ponds and lakes as needed; that the total number of units in both the existing and proposed project will not exceed 2400 units; that the security service is run by the Recreational Association, not Sea Colony Inc.; that the existing ditches on the site are not tax ditches; that the first phase of the expansion will be developed closest to the existing available sewer connection; that some of the proposed tennis courts may be relocated near the existing tennis court facility and that if those courts are moved the area originally intended for courts will remain as some type of open space; that Sea Colony East has approximately one quarter of a mile of beachfront; that residents, as members of the recreation association, may utilize any of the recreational amenities at any of the locations throughout the project; that approximately 65 percent of the structures contain 8 units; that no single family detached dwellings exist in the existing project and that none are proposed; that the duplex structures are being designed to appear as single family dwellings and should be compatible with the adjoining dwellings; and that 45 percent of the existing units are utilized as rentals by the individual owners.

The Commission found that the representatives of the application submitted a booklet on the application, a copy of the Developer Advisory Committee report, a copy of a memo from Michael Izzo of the County Engineering Department, copies of section 3.6 and 3.3 of the South Coastal Regional Planning Study, a copy of a letter from the DNREC Water Supply Branch, a letter from Davis, Bowen and Friedel Inc., a letter from the Bethany Beach Volunteer Fire Co., a copy of a letter from the Office of the State Fire Marshal, a copy of the Declaration of Condominium for Sea Colony West, a copy of the Code of Regulations of Sea Colony West, a copy of the Traffic Impact Study for Sea Colony West prepared by Greenhorne & O'Mara, Inc., and a copy of a letter from the DNREC Division of Parks and Recreation.

The Commission found that the representatives of the application submitted a list of possible conditions that the developer would support as conditions of stipulations if the project is approved.

The Commission found that 4 people spoke in support of the application if 4 requested stipulations proposed in a letter from David C. McLaughlin were required as stipulations.

The Commission found that the referenced 4 stipulations included that: 1. An undisturbed land buffer zone of 70 feet, measured west from the westerly boundary of lot #8 to the Proposed Sea Colony construction area; 2. Construction limited to one duplex structure within 170 feet of land paralleling the west side of lot #8 and bordering the west side of said buffer zone and the east side of the proposed street right of way serving the duplex; 3. Prohibition of any Sea Colony fencing along the 170 feet of Sea Colony boundary bordering the west side of lot #8, or within the 70 foot buffer zone west of lot #8; and 4. The areas to the west and south of lot #8 to be landscaped in accordance with a submitted landscape plan, which includes a 10 feet high non-deciduous hardwood hedge, for purposes of reducing the traffic noise and lights from the adjacent parking lot and road entrance and reducing the view of property owners overlooking the pool on lot #8.

The Commission found that another letter was received in support if an additional stipulation is included to provide similiar landscape screening from lot #10.

The Commission found that eight (8) people spoke in opposition to the application and expressed concerns in reference to increased traffic; limited parking available at the Sea Colony East for beach access; rental tenants traffic; that the beach is not capable of handling the additional density; that maintenance and security are provided by the recreation association, not Sea Colony, Inc.; that if the plans are approved no major changes should be allowed in the plans; drinking water contamination; evacuation routes during emergencies; dredging of the Assawoman Canal and questioning the placement of spoils from the dredging; construction during the summer season with heavy equipment; the loss of trees; maintenance of drainage ditches; dumping of debris, trees, and stumps; that single family detached dwellings would be preferred; and that the proposed non-disturbance buffers, if created, be undisturbed with no clearing and no grading.

PUBLIC HEARINGS

Sussex County Council, March 31, 1992

This is to certify that the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the hearing, the Commission moved and passed that the application be forwarded to the County Council with recommendation as stated.

Respectfully submitted,

COUNTY PLANNING & ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director

C/U 996--application of Ronald E. Lankford to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, for a Family Amusement Park lying on the northwest side of Route 271, 600 feet northeast of Route One and northwest of Rehoboth Beach and to be located on a parcel containing 96.4 acres more or less.

The Commission found, based on comments received from the DNREC Underground Storage Tank Branch, that the Branch has no record of a tank at the subject site; that if the project is intended to include underground storage tank systems, the owner must submit plans for approval prior to installation; and that if an underground storage tank is found on the property during any construction the Branch must be notified immediately.

The Commission found, based on comments received from the DNREC Division of Parks and Recreation Natural Heritage Program, that part of the project is located in the Cape Henlopen Natural Area; that the Division strongly advise that woodlands and stream corridors remain undisturbed since an undisturbed area could provide a natural amenity and backdrop to the project; that the Division can provide assistance in forest management for the woodlands on site; that the Division will be coordinating with the Division of Water Resources on the stormwater and other discharge into Beaver Dam Branch; that discharges should be timed to avoid adverse impacts on the downstream natural community; and that the Division will be contacting the developer to inventory the site for animal and plant species of concern and to discuss natural area protection.

The Commission found, based on comments received from the DNREC Division of Parks and Recreation Natural Heritage Inventory, that they have reviewed the database of Species of Special Concern for the site and are unaware of any rare plants, animals, or unique natural communities within the project site; that they are concerned with the potential impacts to the Beaver Dam Branch, and to species and natural communities located in close proximity to the project; that the Beaver Dam Branch has not been surveyed by the office; that the appropriateness of the topography, hydrology, and habitat type would suggest that this extension of Holland Glade is potentially one of two natural communities of concern; that both bog-like communities and sea-level fens (low land covered wholly or partly with water) are extremely uncommon in Delaware, but from recent examples, are known to be characterized by a great diversity of rare plants and animal species; that they are aware of two rare plant species known from this area through historical records and thought to have occurred in the area of Holland Glade through Beaver Dam Branch; that within a half mile of the site lies two large tracts of wooded land where a variety of neotropical migratory songbirds habitat for breeding and as a staging area for migrating; that population reductions of neotropical migratory birds are thought to be influenced by habitat destruction and alteration in breeding, wintering and migratory grounds, as well as by biological factors; that a recent study of habitat use by these birds has revealed a great diversity of species to utilize the woodlands in the autumn months; that three sample points located within 3/4 miles of the site contained over 38 species of neotropical migratory birds; that they would welcome the opportunity to conduct a comprehensive biological inventory of the site prior to any construction; and that they recommend that the project area be thoroughly surveyed for natural community types and for the presence of rare species.

The Commission found, based on comments received from the DNREC Water Supply Branch, that the site is located in a water service area allocated to Tidewater Utilities and that the owner or developer should obtain a statement of water availability from the utility company.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped to be Sassafras sandy loam, Rumford loamy sand, and 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 in respect to erosion and sedimentation control shall require that the owner follow an erosion and sediment control plan during construction and to maintain vegetative cover after completion of any construction; that the farmland rating of the soil type is prime or of statewide importance; that no storm flood hazard area

or tax ditch is affected; that it may be necessary for some on-site drainage improvements; and that it may not be necessary for some off-site drainage improvements.

The Commission found, based on comments received from the DNREC Office of the Secretary for Land Use Review and Coordination, that comments have been requested from the DNREC Division of Air and Waste Management - Waste Management Section - Solid Waste Branch and Underground Storage Tank Branch, the DNREC Division of Parks and Recreation, the DNREC Division of Soil and Water Conservation, the DNREC Division of Water Resources - Watershed Assessment Branch and Water Supply Branch, the Division of Public Health, and the Department of Transportation.

The Commission found, based on comments received from DelDOT, that they have received additional information from the developer in reference to the amount of acres to be utilized for the park and that the corresponding trip generation values allowed are respectfully 7,230/3,375 weekdays and 14,460/6,750 weekends; and that the revised information does not alter the Departments evaluation of the overall impact that this development will have for the local transportation system.

The Commission found, based on comments received from the Office of the Secretary of the DNREC on behalf of the Developer Advisory Service, that the Underground Discharges Branch commented that a moratorium may exist on placement of on-site disposal systems for commercial properties along the Route One corridor pending construction of a County sewer system and that a holding tank system may be an alternative disposal method; that the Pollution Control Branch commented that since the development proposes to drain the water rides at the end of each season by discharging the water into surface waters of the State appropriate permits are required from the State and Federal governments; that the Wetlands and Aquatic Protection Branch commented that wetlands regulated by the State of Delaware do not appear to be within the site, that wetlands regulated by the Corp. of Engineers do appear to be within the site and that any activity, such as filling, dredging, crossing with a road, or placement of a structure, may require a permit, that Beaver Dam Branch and its tributaries are regulated by both the State and the Corp. of Engineers, that the extent of the wetlands should be identified on the site plan, that a stormwater management facility should be implemented to prevent surface water runoff from directly entering adjacent wetlands and waterways, and should be designed to manage both water quantity and quality parameters and should not be located in wetlands unless there are no practicable nonwetland alternatives, that in order to

reduce the likelihood of wetland impacts property lines should not extend into wetlands, that wetlands could be dedicated as undisturbed community open space, and that it is recommended that as wide a buffer strip of natural vegetation as possible be maintained between Beaver Dam Branch and the development; that the Division of Air and Waste Management commented that any construction debris associated with the project should be recycled where possible or disposed of in a permitted landfill; that the CERCLA/Superfund Branch commented that the referenced site is not located on or near a potential and/or existing Superfund site; that the Division of Fish and Wildlife commented that the developer must comply with all DNREC Stormwater Management Regulations and Erosion Sedimentation Regulations during construction; that the Division of Soil and Water Conservation commented that Delaware regulations require that an approved Erosion and Sediment Control Plan be obtained prior to any land disturbing activities begin; that the Department of Agriculture commented that the developer should take precautionary measures to minimize any conflicts with adjacent farms, that proper buffers should be provided to decrease the potential of disturbing the nearby farming operations, and that advice on forestry management practices near the Beaver Dam Branch may be obtained through the Department; that the Bureau of Archaeology and Historic Preservation commented that there are known historic and prehistoric archaeological sites within the site and that an archaeological survey will be required, that a historical cemetery may exist on the subject parcel and that State regulations exist to protect any cemetery; that the Division of Public Health commented that State permits are required for waterslides, pools, and similiar activities, and for food services; that the Division of Public Utilities Control recommend a buffer between the park and the DPL right of way; and that the Office of the State Fire Marshal commented that numerous State Fire Prevention Rules and Regulations are applicable to this project.

The Commission found that the applicant was present with legal counsel, a business partner, an Engineer, and the designer of the park, and that the developer proposes to utilize the site for a family entertainment park.

The Commission found, based on comments made by representatives of the application that smaller entertainment projects exist in the area; that a marketing study has been performed which indicated a need for this type of project and that the project may be economically feasible; that for the park to succeed safeguards must be built into the project to protect the environment as it relates to infrastructure, traffic, architecture, and economic impacts (jobs and contributions to the economy), that the referenced Developer Advisory Service comments were based on a submittal by the developers for input from the agencies to aid in

the design of the plans; that the area is in need of a project oriented toward family entertainment activities since Dewey Beach seems oriented towards young adults and since Rehoboth seems oriented toward adults, based on the number of retail shops and restaurants; that water usage should be less than typical agricultural irrigation usage; that sewerage is proposed to be tied into the County Sewer District once completed; that a septic type system may be utilized if permitted; that the site is not in the moratorium area on septic type systems; that stormwater management regulations require compliance with codes; that the proposed project should have less impact on stormwater management than the present farm operation; that stormwater runoff should be lessened; that the water utilized for the waterslides and similiar water oriented activities must be chemically and mechanically maintained; that all discharged water must conform to DNREC and EPA regulations; that the majority of the woodlands are intended to be retained; that no wetlands are to be disturbed; that a 50 foot minimum width buffer shall be maintained along any wetlands; that the project will be fenced to limit and control access to the wetlands; that Route 271 is proposed to be realigned to the rear of the outlet stores with two entrance/exit locations on Route One, one at the existing traffic light at Camelot and one at the existing traffic light at Sea Air Mobile City; that parking areas will be surrounded by landscaped berms; that additional trees and landscaping will be provided throughout the park for shade; that the architectural theme of the park will be oriented toward the architecture of the area which includes some Cape Cod and Victorian style structures; that the water oriented section of the park will include a wave pool, a lazy river ride, children activity areas, slide and innertube rides, and picnic areas; that the dryside section of the park will include a boardwalk area with an open theater, an aquarium exhibit, a petting zoo, a low profile wooden roller coaster, a ferris wheel, childrens rides, and retail shops and refreshment areas; that adequate restroom facilities will be provided; that a down light lighting system will be provided to reduce direct light impact on the neighborhood; that the developer realizes that the height limitation is 35 feet for the roller coaster and ferris wheel and that a variance is required to be obtained from the County Board of Adjustment if a greater height is proposed; that the applicants are working with DelDOT in designing the ingress/egress to the park; that approximately 3 million visitors come to the area per year; that the tourist market is already established in the area and that the majority of the customers will be from the same tourist market; that traffic studies and good planning, use of bus service, hours of operation with peak use of Route One, entrances and exits onto Route One, can reduce traffic to a minimum; that the park will be open no earlier than 10:00 AM and no later than 11:00 PM; that the park will have its own security force; that the anticipated admission will be

\$12.00 per day; that the average time spent in the park per guest is anticipated to be 4 hours per day; that no alcoholic beverages will be permitted; that the park will operate seasonally from May to September; that the park could provide approximately \$162,000.00 in tax benefits; that 22 full-time year round employees and that 117 full-time seasonal employees are anticipated at the park; that 225 additional jobs are anticipated off site; that eastern Sussex County is influenced by a tourist economy; that the Coastal Sussex Land Use Plan references that tourism has and will continue to have major impacts on coastal Sussex since many industries rely directly or indirectly on tourism for their income and that development of recreational resources for use by tourists and seasonal residents would yield economic benefit to the region; that 5,600 visitors are anticipated as a peak; that the seller required that the applicants purchase the entire 96.4 acres rather than the proposed 45 acres for the park; that the water oriented rides and slides are concrete structures with central water filtration systems and that the lakes are stormwater management areas; that presently there are no plans for the triangular tract of land between the site boundaries and the proposed realignment of Route 271; and that all necessary maintenance work will be performed during open hours of the park.

The Commission found that two people spoke in support of the application since tourism is an economic base for the area.

The Commission found that a letter was received in support of the park from the Board of Directors of the Rehoboth Beach - Dewey Beach Chamber of Commerce.

The Commission found that petitions containing approximately 108 signatures in opposition were received.

The Commission found that 5 letters were received in opposition.

The Commission found that 17 people spoke in opposition to the application and expressed concerns in reference to minimum wages and housing, the impact on the residential area, depreciation of residential property values, sewer capacity, traffic congestion, crime, the impact on the environment, noise, pollution, loss of green space, loss of natural habitat for wildlife, water quantity and quality, impact on nearby dairy farm, after hour congregating at the park, the questionable creditability of the applicant, trash, encroachment of commercial areas into the agricultural residential area, rescue and fire protection, the traffic impact on other areas of the County which may cause an influence on creation of a East/West Corridor Highway, runoff from blacktop parking lots, gas and diesel emissions, and excess water usage.

Recommended approval with the following stipulations:

1. Nothing shall be built that exceeds 35 feet in height.
2. The development shall provide its own ingress/egress.
3. Rollercoaster wheels and tracks shall be teflon coated.
4. The hours of operation shall be from 10:00 AM to 10:00 PM.
5. A 70 foot wide buffer shall be provided around the entire outer limits of the project.

Motion carried 4 to 1.