

MINUTES OF THE REGULAR MEETING OF APRIL 15, 1993

The regular meeting of the Planning and Zoning Commission was held Thursday evening, April 15, 1993, at 7:30 PM, in the Court of Chancery, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the minutes of March 25, 1993 as circulated.

IV. OLD BUSINESS

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

The Chairman referred back to this application that was deferred at the March 25, 1993 meeting.

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

II. Public Hearings

1. RE: C/U #1034 -- Tunnell Properties, L.P.

Robert Tunnell, Jr. and John Sergovic, Jr., Esquire, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for a Manufactured Housing Community (Mobile Home Park) with a Public Golf Course lying north of Road 22 (a.k.a. State Road 23 and Long Neck Road), and west of Road 298 to be located on a parcel containing 388.44 acres more or less.

Mr. Lank read correspondence from the Office of the Secretary of the State Department of Natural Resources and Environmental Control (DNREC), the Office of the State Fire Marshal, the Delaware Health and Social Services, the DNREC Division of Air and Waste Management - Underground Storage Tank Branch, the Sussex County Engineering Department, the DNREC Division of Water Resources - Pollution Control Branch, the Sussex Conservation District, the DNREC Division of Water Resources - Wetlands and Aquatic Protection Branch, the Department of Agriculture - Division of Resource Management, the DNREC Division of Air and Waste Management - Solid Waste Management Branch, the Department of Transportation, and the Long Neck Business Association.

Mr. Sergovic submitted a brochure for review by the Commission.

Donald Westphal, a Site Planner, exhibited poster boards with maps of the location, soils analysis, topography analysis, slope analysis, a subdivision of the site with 10,000 square foot lots, and the proposed site plan, and explained each poster board.

Mr. Sergovic advised the Commission that the project will conform with all applicable environmental preservation requirements, referenced the Coastal Sussex Land Use Plan, and referenced environmental considerations.

Jeffrey Clark, a Landscape Architect with Land Tech, Inc., described a traffic impact report to the Commission. Mr. Clark referenced the DelDOT letter read into the record by Mr. Lank, and stated that the suggested limitations should not be tied into State projections, and advised that the developers cannot anticipate DelDOT scheduling. Mr. Clark advised the Commission that the right of way width of Road 298 is 50 feet.

Edwin B. Perry of the Long Neck Business Association advised the Commission that the Association supports the project since the project will be managed by Tunnell Companies, Inc., and since the project will include facilities for meetings, medical services and other services.

George Stegman, a resident of Pot Nets Park, advised the Commission that he supports the developer and the quality of their projects.

Janet McCarty, owner of Williams-Baker, Inc. and developer of Winding Creek Village, stated that on March 10, 1993 the Property Owners Association of Winding Creek Village met with the Tunnells to discuss the project, that the residents will benefit from the project and the golf course, that the project appears to be first class and sensitive to the area residents and the environment, that the medical facilities will benefit the area, that the developers intends to improve Road 298 to benefit all users, that she would prefer development now by the applicants with maintenance of the project long term, and recommended approval of the project. Ms. McCarty advised that of the 244 lots in Winding Creek Village there are 188 sold.

Mr. Sergovic stated that the wetlands delineation has been confirmed, that it is the intent of the applicants to provide central sewer with spray irrigation on the golf course, that DNREC and the Sussex County Engineering Department supports the intent of the central sewer with spray irrigation.

Mr. Tunnell described the policies of Tunnell Companies, Inc. that their projects put back into the communities, that the golf course is intended to be affordable, that the number of sites is

less than the number of lots that could be created in a subdivision, that the number of lots proposed are needed to make the project affordable, that the project design provides views of the golf for all those that choose to drive through the project, that the company is willing to work with all agencies, that it may take 3 years to obtain all permits and an additional 3 years to develop the first phase of residential lots, that the first priority is the golf course and the clubhouse, that 535 of the 1,000 tenants who responded to the questionnaire want to play golf, that sewerage is proposed to be pumped to the Pot Nets treatment facility, processed and then pumped back to the golf course to be sprayed, that the existing Pot Nets treatment facility has a storage capacity of 3.5 million gallons, that the existing Tunnell Company, Inc. projects will be totally developed when they are ready to start this project, that the project is proposed to be developed with 6 phases with completion by the year 2012, that the first phase will be the first nine holes of the golf course, the clubhouse, and some infrastructure.

Mr. Charles Marsch, Chairman of the Environmental Concerns Committee of the Sussex County Manufactured Home Tenants Association, advised the Commission that he supports the project since the intent of the sewer treatment of the project will help replenish the ground water.

Robert W. Edwards, a resident of the long neck area spoke in support of this application since little recreational facilities exist in Long Neck, that since only one public golf course exist in Sussex County, he must travel to Maryland to play golf.

E. K. Coleman, a resident of Road 298, stated that he would prefer to look out at a golf course than a manufactured home.

Pete Townsend stated that the developers have proven by the quality of their projects that they are first class developers.

Diana Brotherton, a resident off of Road 298, stated that she has known that the site would be developed some day, that since the Tunnells are the intended developer she supports the project, and that the project will appreciate property values.

Glenn Hall, a resident off of Road 298, spoke in opposition since Road 298 cannot handle additional traffic, that the road would have to be widened, that the widening would be taken from other property owners, concerns for children safety, disturbance of wildlife, and that enough trailer parks exist in the area.

Leon Hall questioned how many people can play golf in a day on one course.

Edward Banks, a resident off of Road 298, spoke in opposition due to traffic and increases in taxation.

Chuck Davidson, a resident of the Seaford area, spoke in opposition and expressed concerns to the impact of a major storm on the proposed manufactured home type structures, salt water intrusion, nitrate contamination, the amount of discharge from the sewer facility, residents using pesticides and herbicides, loss of forestland, questioning the number of wells needed to serve the site, impacts on the Inland Bays since the project is at the upper end of Guinea Creek, and since the project only benefits the developers.

Claudia Orr read and submitted a letter in opposition from the Delaware Audubon Society, and questioned the impact by fairways along the wetlands due to the use of pesticides, herbicides, and fertilizers, that the exclusion of wetlands from the calculation indicates only 42% open space, questioning who will end up paying for the necessary road improvements to public roads, and questioning how the project is a community service, questioning how the project is a community service.

Til Purnell spoke in opposition to both applications and expressed concerns to other C-1 General Commercial uses, that C-1 is not needed in the area, that medical facilities already exist in the area, the negative impact on wildlife in the area, loss of trees, the negative impact on Guinea Creek, that a golf course is not needed in the area, pollution of the Inland Bays, the negative impact on ground water, questioning the need for additional manufactured home lots in the area, and since there is no environmental benefit by the creation of this project.

Frank Hall spoke in opposition and expressed concerns in reference to farmland and golf course runoff creating ecological problems.

Larry Mackard expressed traffic concerns.

Ron Mackard expressed traffic concerns.

George Merrick, III, speaking on behalf of the Sussex County Watermans Association, spoke in opposition and expressed concerns to impacts on Guinea Creek and the Inland Bays, the impact on ground water, loss of wildlife, that there is no need for another golf course in Sussex County, and that there is no environmental benefit create by this project.

Larry Wonderland, Sussex County Chairman for the Sierra Club, spoke in opposition, expressing concerns about traffic and the incidental growth of Sussex County.

Henry Glowiak, representing Save Wetlands and Bays (S.W.A.B.), submitted a letter from S.W.A.B. and requested postponement of the hearing for an in depth study of the project, expressed a need to protect the waterways, expressed a concern due to increases in discharges of pollutants, and suggested the donation of the area for open space.

Mary Burton expressed opposition to the loss of woodlands and a natural windbreak.

Robert Lawson, President of the Harbeson Improvement Association, spoke in opposition and expressed concerns on the impact on State Road 5 and State Route 9, and the impact on traffic on State Road 5 by an industrial site near Harbeson.

Shawn Rogers spoke in opposition and expressed concerns to drainage problems along Road 298, the lack of shoulders along Road 298, and that he had purchased his property since it was located in an AR-1 Agricultural Residential District.

Charles Langshaw spoke in opposition and expressed concerns that he had moved into the area for open space and that the project will destroy openness.

Blackie Nygood spoke in opposition and expressed concerns to the developers comment that the main entrance will be off of Route 23 when the site plan indicates that the larger majority of the project has access to Road 298, and expressing a lack of a need for an additional golf course.

Steve Wagner questioned the need for a medical facility.

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 Office of the Secretary of the State DNREC, 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 Water Resources Pollution Control Branch, Watershed Assessment Branch, Wetlands and Aquatic Protection Branch, and Water Supply Branch, the Department of Agriculture, the Bureau of Archaeology & Historic Preservation, the Delaware Health & Social Services - Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, the State Police Headquarters Communications, and the Sussex Conservation District.

The Commission found, based on comments received from the Office of the State Fire Marshal, that the Office has no objection to the application.

The Commission found, based on comments received from the Delaware Health and Social Services - Division of Public Health, that the developer must contact a Division Environmental Engineer for plan submission requirements for the water system.

The Commission found, based on comments received from the DNREC Division of Air and Waste Management, that the Branch has no record of underground tanks or leaks from underground tanks at the site, that any tanks found on the site must be reported immediately, and that if any tanks are proposed appropriate applications must be submitted.

The Commission found, based on comments received from the Sussex County Engineering Department, that since the applicants propose to provide central wastewater collection and treatment facilities for the project, then wastewater needs have been addressed, and suggest that central wastewater facilities should be made a condition of approval.

The Commission found, based on comments received from the DNREC Division of Water Resources - Pollution Control Branch, that the Branch has no objection to the project provided wastes are effectively managed to minimize impacts on surface and groundwater resources.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Rumford loamy sand, Matawan loamy sand, Johnston silt loam, and Swamp, that the suitability of the Evesboro and Rumford soils for the intended use may vary from none to slight limitations, that the Matawan soils may vary from slight to moderate limitations, that the Johnston soils may have severe limitations due to a high water table and flood hazards, that the Swamp soils have very severe limitations due to ponding water, that the evaluation of the soils with respect to erosion and sediment control may require the developers 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 Evesboro and Rumford soils is of Statewide Importance, that the farmland rating of the Matawan soils is Prime, that the area of Johnston and Swamp soils would be in a flood hazard area, 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 no tax ditches are affected.

The Commission found, based on comments received from the DNREC Division of Water Resources - Wetlands and Aquatic Protection Branch, that information provided to that office is insufficient for making a preliminary wetland determination, that any activity such as filling, dredging, crossing with a road or placement of a structure may require a permit from the Branch or the U.S. Army Corps of Engineers, and that the extent of wetlands should be identified through an in-field wetlands delineation and depicted on a site plan, or a statement indicating wetlands are not present should be provided, before final zoning approval is granted.

The Commission found, based on comments received from the Department of Agriculture Division of Resource Management, that a Land Evaluation and Site Assessment analysis indicated that this site scored 170 out of 300 points, which is below average for Sussex County, indicating that economical long-term agricultural production is questionable in this area, that the prime forest land account for an above average Land Evaluation score and reflects the highly productive qualities of the Evesboro soils, that the Site Assessment score was low and indicated that agriculture is one of several land uses in the area, that the previous and recurring rezoning lowered the Site Assessment score, that the Division strongly recommend that the developer be required to use vegetative buffers to separate the development from any actively cultivated lands which may be adjacent, that the establishment of the buffers reduce potential conflicts between modern commercial agriculture and residents of housing projects, that any wooded areas or hedgerows at the perimeter of the project should be a part of a buffer, that the development will increase the demand for sewer in the area, that the County will have to address the amount of increased traffic to be generated, that plans for a school to be built in the area with buses and crosswalks may have the potential for conflict to the uses proposed, that the number of traffic trips per day may affect farming operations and increase the need for road improvements, that the Division sees the creation of 726 manufactured housing lots along Guinea Creek as having potential impacts on the environment by deteriorating water quality of the inland bays and agriculture, that the Division is concerned with the loss of prime forest land within the watershed of the Inland Bays area, that maintaining the forested cover will reduce the movement of sediment from the development into any surrounding wetlands, that the Division recommends that the developer reduce the number of lots to preserve trees and open space, that lot reduction is not only feasible but necessary to maintain a livable environment in the area, that the developer has contacted the Division's Urban Forester to discuss tree preservation, that the developer is having a Forestry Conservation Management Plan prepared, and that the Division would like to see a revised plan with cluster housing and open space with phasing stages indicated.

The Commission found, based on comments received from the DNREC Division of Air and Waste Management - Solid Waste Management Branch, that Delaware regulations prohibit the burial of construction/demolition debris, including trees and stumps, except at permitted and approved sites, that any encountered solid waste found during excavation must be removed and disposed of, and that the Branch encourages recycling of materials whenever feasible.

The Commission found, based on comments received from the Department of Transportation, that the Department has reviewed the application with regard to its transportation system impacts, and that if the County approves the application, these impacts would be significant, that the Department has had a transportation study performed of the Sussex County area, that the study recommends a program of transportation system improvement projects for the vicinity of the site and that these improvements are essential to provide adequate levels of service to the citizens of the area, that at the request of the Sussex County Council and other local jurisdictions DelDOT currently maintains a moratorium on the recommended improvements, that Route 24 would be a principal road to service the parcel, that construction of Route 24 improvements and widening in this area may not start for 6 years, that without the recommended widening Route 24 cannot accommodate this development, that Route 24 in this vicinity frequently operates at a level of service E during peak summer time periods, that possible trip generation created by this project will contribute significantly to congestion on Route 24, that a Memorandum of Understanding with Sussex County indicates that the County will not rezone property unless certain conditions are met if the rezoning could cause the threshold of the level of service to be exceeded, that the County may still approve the rezoning despite traffic impacts if the developer takes appropriate measures to maintain operations at the threshold level or if Sussex County finds that the benefits to the general public outweigh the detriment caused by the decline in the level of service, and that Sussex County shall set out in writing their reasons for approving the rezoning, that if the County should approve the application the Department recommends that the County require the developer to construct improvements to the intersection of Long Neck Road and Road 298 for one left turn lane on each approach, require the developer to execute a signal agreement for the intersection for Long Neck Road and Road 298, require the developer to construct improvements to the intersection of Route 24 and Road 298 for a left turn lane for left turns from westbound Route 24 onto Road 298, a right turn lane from Road 298 onto Route 24, that the developer be required to construct a hot-mix overlay on Road 298 from Road 299 to Route 24, that the developer be required to participate in improvements on Long Neck Road from Road 298 to Road 22C for creation of additional right of way widening and paving, that if the referenced improvements are completed it will contribute to safe and

efficient traffic operations on Long Neck Road and Road 298, that the improvements will not mitigate the traffic this site will add to Route 24, that it is the opinion of the Department from discussions with the developer that if the application is approved they intend to implement the referenced requirements, that Route 24 is presently inadequate to support the development, that Route 24 needs to be widened to four lanes, that the four lanes have not been built because Sussex County Council has asked the Department not to build it, that the Department feels that in the best interest of Sussex County that this development and any like it in the Route 24 corridor be delayed until either Route 24 is widened or some other measures, such as a parallel road or a regional transit system, substantially reduces the traffic on Route 24, and that if the County disagrees with the Department on this point, that the Department recommends that the County at least require the five improvements described in order to provide minimally acceptable facilities between Route 24 and the site entrances.

The Commission found, based on a letter received from the Long Neck Business Association, that the Association absolutely supports the application and the developers pride in maintaining the communities and that the project be of the same fine quality that can only bring continued successful growth to the Long Neck area.

The Commission found that the application was represented by Robert Tunnell, Jr., an Attorney, a Site Planner, and a Landscape Architect.

The Commission found that the applicants submitted a brochure which referenced educational facilities, police protection, fire protection, traffic, water, electric, wastewater facilities, housing demands, increases in County and State revenue, area businesses, real estate values, land use plans, and environmental considerations, the concept of the project, soils, topography, vegetation, circulation, lots, drainage, slopes. the brochure included copies of letters from Indian River School District, the Division of State Police, the Indian River Volunteer Fire Co., Inc., a traffic impact report, letters on behalf of the Public Water Supply Company, Inc., the Delaware Electric Cooperative, Inc., Cabe Associates, Inc., Burton Realty, Inc., Miller's Forestry Services, letters to the Natural Heritage Inventory Office and the Department of Agriculture, letters from the Department of the Army Corps. of Engineers referencing wetlands, and an article referencing conservation on golf courses.

The Commission found that the Site Planner exhibited poster boards with maps of the location, soils analysis, topography analysis, slope analysis, a subdivision layout of the site with 10,000 square foot lots, the proposed site plan for the project,

and that the Site Planner explained each poster board. The Site Planner stated that the project is to be a golf oriented development with a main boulevard road with no lots having direct access to the boulevard, that the project is designed to place golf fairways along Road 23 and Road 298 separating the development from public roads, that no development activities are proposed near wetlands, that stormwater run-off will be directed to man-made facilities and not directly to wetlands, that a road will cross the wetlands at only one location, that boardwalks will be built for golf course crossings, that pedestrian cartways are proposed along minor and major collector streets, that buffers will remain undisturbed, that approximately 57% of the site will remain in open space, that approximately 15% of the site are wetlands, and that the overall density will be 1.88 units per acre.

The Commission found, based on comments made by the attorney on behalf of the application, that the applicants have conducted extensive inquiry concerning how best to preserve the unique natural resources of the site, that the applicants have consulted extensively with the DNREC and will make every effort to address DNREC concerns, that tree preservation is a planning element for the project, that tree preservation and reforestry plans are being addressed by a forestry service, that sensitivity to preserving natural conditions including wetlands and non-encroachment on wetlands has been a primary goal in the project design, that wetlands limits have been delineated by the Corps. of Engineers, that the project design contemplates no intrusion into wetlands except for necessary road and golf course passageways, and that all improvements will be setback from sensitive wetland areas.

The Commission found, based on comments made by the Landscape Architect on behalf of the application, that a traffic impact report was prepared, that the project limits ingress and egress to two locations, that the main entrance serving the project and the golf course will be on Road 23, that a secondary entrance access is planned for Road 298, that it has been determined that the primary access for residents of the long neck area from the north and west is Route 5, that the applicants commissioned a survey of residents within Tunnell Communities, that the survey indicated that 76 percent of those responding utilize Route 5, not Route 24, as their primary access, that it is anticipated that the residents of this application site will utilize the same traffic pattern, that the central business districts on long neck will continue to serve the area, that the currently available commercial services and anticipated commercial development to support population increases will reduce traffic impacts on Route 24 and the need to travel to Millsboro or the Lewes/Rehoboth commercial area, that the golf facilities, providing recreational amenities, should cause a lessening of traffic generation to the beach recreational areas, that the applicant concurs with DelDOT that Route 24 needs

upgrading, that since DelDOT maintains a moratorium on new improvements to Route 24 it cannot be anticipated that an individual developer be responsible for undertaking public improvements, that the applicant is prepared to address all of DelDOT suggested improvements to the immediate road system, recognizing its responsibility to not adversely impact the neighborhood, that the applicant recognizes that its proposed project will directly affect the capacity of the road system immediately adjoining the project and will voluntarily undertake a commitment to make road improvements which are directly attributable to proposed usage and increases to residential traffic, and that the applicant has authorized that five improvements for attachment as mandatory conditions of this Conditional Use application, that the five conditions include reference to the applicant's commitment to improve the intersection of Long Neck Road and Road 298, the applicant's commitment to execute a signal agreement for the intersection of Long Neck Road and Road 298, that the applicant, providing adequate right of way is provided, will construct improvements to the intersection of Route 24 and Road 298, and that the applicant agrees to work with DelDOT on its conceptual plans for improvements for segments of Road 298, Long Neck Road from Road 298 to Road 22C, and that the applicant is committed to continue coordinating its road improvements to DelDOT standards as required by existing statutes and regulations to obtain the two entrance permits for the project.

The Commission found that three parties spoke in support of the application since the project will be managed by the applicant, since the project will include facilities for meetings, medical services, and recreational services, since the area residents will benefit by use of the public golf course, since the project appears to be designed first class and with sensitivity to the area residents and the environment, and since Road 298 repaving will benefit all motorists.

The Commission found that the attorney on behalf of the application advised them that it is the intent of the applicant to provide central wastewater facilities at an existing site near Pot Nets Park and then pump processed water to the site for spray irrigation, and that the DNREC and the County Engineering Department support the concept for spray irrigation.

The Commission found that the applicant's company representative described the applicant's policy that their projects put back into the community, that the golf course is intended to be affordable, that the number of sites is less than the number of lots that could be created in a subdivision, that the number of sites are needed to make the project affordable, that the project design provides views of the golf fairways for all those that

choose to drive through the project, that the company is willing to work with all agencies, that it may take 3 years to obtain all permits and an additional 3 years to develop the first phase of residential lots, that the first priority is the golf course and the clubhouse, that the existing Pot Nets treatment facility has a storage capacity of 3.5 million gallons, that the existing company projects will be totally developed when this project is ready to start, and that the project will be developed in 6 phases with completion by the year 2012.

The Commission found that 5 parties spoke in support of the project since the project is intended to be served by central wastewater treatment with spray irrigation which provided replenishment of the ground water, since the project will provide much needed recreational facilities in the long neck area, since a golf course is more pleasing to the eye than the rear of manufactured homes, since the project is being developed by the applicant, and since the project should appreciate property values.

The Commission found that eighteen (18) parties spoke in opposition and expressed concerns in reference to the impact be additional traffic on Road 298, that the road will have to be widened, that the widening would be taken from other property owners lands, children safety, disturbance of the wildlife in the area, that no need exist for another manufactured home park in the area, questioning how many people can play golf in one day on one course, increases in taxation, questioning the impact of a major storm on manufactured home type structures, salt water intrusion, nitrate contamination, the amount of discharge for wastewater facilities, residents using pesticides and herbicides, loss of forestland, questioning the number of wells intended, impacts on Guinea Creek and the Inland Bays, questioning the impact by golf fairways along wetlands due to the use of pesticides, herbicides, and fertilizers, questioning who will end up paying for the necessary road improvements, questioning how the project is a community service, concerns against other uses permitted in C-1 General Commercial Districts, questioning the need for a medical facility in the area, the negative impact on ground water, loss of trees and a natural windbreak, the impact on Route 5 and Route 9 near Harbeson by the increases of traffic, the impact on Route 5 traffic by an industrial site near Harbeson, drainage problems on Road 298, the lack of shoulders on Road 298, the loss of openness, and questioning that the main entrance will be on Road 23 when the majority of the residential development is off of Road 298.

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

2. RE: C/Z #1189 -- Tunnell Companies, L.P.

Robert Tunnell, Jr. and John Sergovic, Jr., Esquire, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located north of Road 22 (a.k.a. State Route 23 and Long Neck Road) 1,200 feet northwest of Road 298 to be located on a parcel containing 6.82 acres more or less.

Mr. Lank read correspondence from the Office of the Secretary of the State DNREC, the Delaware Health and Social Services, the Sussex County Engineering Department, the Sussex Conservation District, the DNREC Division of Water Resources Pollution Control Branch, the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, and the Department of Agriculture Division of Resource Management.

Mr. Sergovic requested that the brochure submitted with C/U #1034 be made a part of the record for this application since some of the testimony referenced the medical facility proposed at this site.

Mr. Sergovic stated that comments referencing the wastewater treatment and traffic are the same as those made on C/U #1034.

Mr. Tunnell stated that a majority of the residents in the long neck area are of retirement age, that the medical facility will provide full service emergency facilities similar to a small hospital, that C-1 General Commercial is requested, rather than a Conditional Use, since Long Neck Road is a general commercial area, since the site is in close proximity to the intersection of Route 24 and Route 23 where the Coastal Sussex Land Use Plan suggest a commercial village area, and that the medical facility will be an enhancement to the community.

Wilma Davis, Lora Scott, Robert Edwards, Barbara Edwards, and George Stegman spoke in support of the need for medical facilities in the area.

Til Purnell, Claudia Orr, Larry Wonderland, Henry Glowiak, Mark Masten and Mary Burton spoke in opposition to the requested rezoning by questioning the need for rezoning, that the rezoning is not appropriate due to some of the other permitted uses in a C-1 General Commercial District, that a precedent may be set for other applications for C-1, and stating that if a medical facility is needed, a Conditional Use application would be more appropriate.

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

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

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Water Resources Pollution Control Branch, the Watershed Assessment Branch, the Wetlands & Aquatic Protection Branch, the Department of Agriculture, the Bureau of Archaeology & Historic Preservation, the Delaware Health & Social Services Division of Public Health, and the Sussex Conservation District.

The Commission found, based on comments received from the Delaware Health & Social Services Division of Public Health, that the developer must contact a Division Environmental Engineer for plan submission requirements for the water system.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is contiguous to the Long Neck Sanitary Sewer District, and that the wastewater needs are being addressed by the proposed central wastewater collection and treatment facilities for the community.

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 have none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant 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 of Statewide Importance, that no storm flood hazard area or tax ditch is 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 DNREC Division of Water Resources Pollution Control Branch, that the Branch has no objection to the project provided waste are effectively managed to minimize impacts on surface and groundwater resources.

The Commission found, based on comments received from the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, that it is assumed that wetlands are present on the site, that any activity such as filling, dredging, crossing with a road or placement of a structure may require a permit from the Branch or the Army Corps. of Engineers.

The Commission found, based on comments received from the Department of Agriculture Division of Resource Management, that given the surrounding zoning designations and land uses the Division does not anticipate any adverse impact to agriculture for the rezoning, and that the Division does not oppose the rezoning.

The Commission found that the attorney present on behalf of the applicant requested that the brochure submitted on C/U #1034 be made a part of the record for this application, that the comments made by the applicant and representatives of the referenced C/U #1034 referencing traffic and wastewater treatment were to be the same.

The Commission found, based on comments made on behalf of the applicant, that the majority of the residents in the long neck area are of retirement age, that the medical facility will provide full service emergency facilities similar to a small hospital, that C-1 General Commercial is requested, rather than a Conditional Use, since the Long Neck Road is a general commercial area, since the site is in close proximity to the intersection of Route 24 and Route 23 where the Coastal Sussex Land Use Plan suggest a commercial village area, and that the medical facility will be an enhancement to the community.

The Commission found that five (5) parties spoke in support of a medical facility in the area.

The Commission found that six (6) parties spoke in opposition to the requested rezoning by questioning the need for the rezoning, that the rezoning is not appropriate due to some of the other permitted uses in a C-1 General Commercial District, that a precedent may be set for other applications for C-1, and stating that if a medical facility is needed, that a Conditional Use application would be more appropriate.

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

III. OTHER BUSINESS

1. RE: Sea Break Phase II - Revised Preliminary Plat

The Commission reviewed a revised preliminary plat for the Sea Break Phase II MR-RPC, located on Route One.

John Sergovic, Attorney, present representing the developers, advised the Commission that a preliminary plan was approved and recorded in April 1990, that another developer would like to purchase a portion of this project and make this a dual

project, that two lots of the original plat have been deleted, that the street design has been shortened, and that if the revised plat is not recorded within sixty days of final approval, it will become void and the plat that has been recorded will be developed.

Mr. Lank advised the Commission that if this plat is not recorded within sixty days after final approval the plat will be void and the original record plat of Sea Break will be the one developed.

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

2. RE: Sea Colony West - Revised Record Master Plan

The Commission reviewed a revised Record Master Plan of Sea Colony West RPC.

Mr. Abbott advised the Commission that the Master Plan was approved on February 11, 1993, that this revision deletes three ponds, that the unit layout has minor changes, that the same number of total units is proposed, and that the Record Master Plan lists all stipulations that the County Council imposed.

Mike Lynn of Sea Colony advised the Commission that the ponds have been deleted since they would be located in wetlands that the developers do not want to disturb.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the revised Record Master Plan as submitted.

3. RE: Sea Colony West RPC - Phase 1E

The Commission reviewed the site plan for Phase 1E of Sea Colony West RPC.

Mr. Abbott advised the Commission that this phase consists of 118 units of which there are 10 eight plex buildings and 38 units in the six plex and four plex type, that the required parking and setbacks are provided, and that the plan has been submitted to other agencies for approval.

Mike Lynn of Sea Colony advised the Commission that the plan has been submitted to all agencies for approval and will be forwarded to the staff when available, and requested that final approval be subject to the staff receiving all approvals and permits.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve Phase 1E as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and or permits.

4. RE: Al Brewington, Jr. - 2 lots and 50' Right of Way

The Commission reviewed a concept to create two parcels and a 50' right of way on the north side of Route 326 and east of Penn Central Railroad and south of Millsboro Pond.

Mr. Abbott advised the Commission that the existing parcel has access from a 30' easement, that the owner wants to widen the right of way to 50' and create two 2.25 acre tracts.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve as a concept.

5. RE: Tom Smith - Lot and 50' Right of Way

The Commission reviewed a concept to create one lot and a 50' right of way on the south side of Route 40.

Mr. Abbott advised the Commission that there is an existing right of way, that the owner will widen the right of way to 50' and create a one acre parcel for the construction of a dwelling.

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

6. RE: Raymond Bryan - C/U #1030 Site Plan

The Commission reviewed a commercial site plan for retail sales on the north side of Route 20.

Mr. Abbott advised the Commission that the plan meets the requirements of the zoning code, that an area for future expansion is referenced, and that the staff has not received any agency approvals.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

7. RE: Duane C. Whitman - C/U #1032 Site Plan

The Commission reviewed a commercial site plan for a miniature golf course located on the north side of Route 20.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code, that a fence has to be erected along the front property line, and that the staff has not received any agency approvals.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried 4 to 0 with Mr. Allen not voting, to approve as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

IV. OLD BUSINESS

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

See Page One.

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

Jeff Clark of Land Tech Inc. was present on behalf of the application of Thetavest, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred by dividing 122.50 acres into 131 lots, located on the Southwest side of the intersection of Route One and Route 207.

Mr. Abbott advised the Commission that this application was approved and recorded in April 1991 with central water, that this plan has been reduced to 114 lots, that individual wells as approved by DNREC will be installed, that the revised record plat meets the requirements of the Subdivision Code, and that all required agency approvals and or permits have been received.

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

3. RE: Subd. #92-10--Land Lords, Inc.

Pete Townsend, developer, was present on behalf of the application of Land Lords, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred by dividing 57.14 acres into 79 lots, located on the north side of Route 235, 850 feet northwest of Route 16.

Mr. Townsend advised the Commission that he would agree to whatever requests that the Commission may have for any recreation area.

Mr. Allen questioned if he would be opposed to using either lot 39 or 41 as part of the recreation area along with the original lot 40.

Mr. Townsend agreed to delete lot 41 and use as part of the recreation area along with the original lot 40.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried 4 to 1 with Mr. Magee opposed to approve as a preliminary.

4. RE: Subd. #91-11--James Ward

Mr. Abbott advised the Commission that a request for a one year time extension has been received, that this application received preliminary approval in April 1991, a one year time extension in April 1992, and that no agency approvals have been received.

Motion made by Mr. Magee, seconded by Mr. Smith and carried 3 to 2 with Mrs. Monaco and Mr. Ralph opposed to deny this request.

5. RE: C/U #955--M.J. Webb Farms

Mr. Abbott advised the Commission that a request for a one year time extension has been received since the developer is having difficulty obtaining a contractor because of the stipulations that were imposed by the County Council.

Mr. Lank advised the Commission that the applicant may request that the County Council wave these stipulations.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve a one year time extension.

Meeting adjourned at 12:00 AM