

## MINUTES OF THE REGULAR MEETING OF SEPTEMBER 8, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 8, 1994, at 7:30 PM, in the Court of Common Pleas Courtroom, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mrs. Monaco, Mr. Phillips, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of August 25, 1994 as circulated.

### II. PUBLIC HEARINGS

#### 1. RE: C/U #1089 - Tim Curry

Tim Curry was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for Retail Sales of Antiques, Collectibles, Gifts, Plants and Produce, lying on the southwest side of Route 13A, 200 feet south of Route 545, to be located on a parcel containing 3.229 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation (DelDOT) and the Sussex Conservation District.

Mr. Curry advised the Commission that he plans to start the business on the first floor of the dwelling and that he will reside on the second floor while he remodels the metal shop building into his proposed antique shop, that no additional buildings are proposed, that he has no intention to create an outside flea market atmosphere, that no outside display is intended unless he places an antique carriage to draw attention, that he has no immediate plans proposed for the rear of the site, that a small amount of produce will be purchased and retailed on site, that the produce will be displayed as a part of the landscaping, that a lighted two-sided sign, no larger than 32 square feet, is proposed to be placed in the front yard, that the business will operate six (6) days per week from 10:00am to 6:00pm, and that during winter months the business will operate using less hours.

No parties appeared in opposition.

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 Sussex Conservation District, that the soils on the site are mapped as Fallsington sandy loam and Woodstown sandy loam, that some of the Fallsington and Woodstown soils are relatively free of limitations or have limitations which are easily overcome, that some of the Woodstown soils have limitations which need to be recognized but can be overcome by careful design or special construction measures, that the developer shall be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of any construction, that the Fallsington soils are considered of Statewide Importance, Prime Farmland, where drained, and a Hydric Soil, that the Woodstown soil is considered Prime Farmland and a Hydric Soil in depressions, 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 DelDOT, that U.S. Route 13A from U.S. Route 13 to the south Bridgeville limits has an annual average daily traffic of 20,656 vehicles per day or a summer average daily traffic of 27,287 vehicles per day based on computed 1989 traffic counts, that the proposed action will have no significant impact on traffic, and that the Division of Highways has granted permission for the applicant to use the existing entrance off of Route 13A as access to the business, that no cars shall be parked on State right of way, and that if the business is expanded in the future the property must submit plans to DelDOT for approval and possible upgrade of the existing entrance.

The Commission found that the applicant was present and advised the Commission that he plans to start the business on the first floor of the dwelling and that he will reside on the second floor while he remodels the metal shop building into his proposed antique shop, that no additional buildings are proposed, that he has no intention to create an outside flea market atmosphere, that no outside display is intended unless he places an antique carriage to draw attention, that he has no immediate plans proposed for the rear of the site, that a small amount of produce will be purchased and retailed on site, that the produce will be displayed as a part of the landscaping, that a lighted two-sided sign, no larger than 32 square feet, is proposed to be placed in the front yard, that the business will operate six (6) days per week from 10:00am to 6:00pm, and that during winter months the business will operate using less hours.

The Commission found that no parties appeared in opposition.



Motion by Mrs. Monaco, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since commercial activities exist across from the site and along U.S. Route 13A and with the following stipulations:

1. No outside display of antiques shall be permitted after business hours.
2. No outside flea market type sales shall be permitted.
3. Signage shall not exceed 32 square feet.
4. The Site Plan shall be subject to review and approval of the Planning and Zoning Commission.

2. RE: C/U #1090 - Townsends, Inc.

Walter Moorehead, Complex Manager for Townsends, Inc., and James Fuqua, Attorney, were present on behalf of this application consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for Land Application of Sludge to Forested Land lying on the southwest corner of the intersection of Route 48 and Route 296, to be located on a parcel containing 351.00 acres more or less.

Mr. Lank summarized comments received from the Indian River School District, the Delaware Department of Agriculture, and the Sussex Conservation District.

Mr. Fuqua and Mr. Moorehead advised the Commission that the Conditional Use is for land application of sludge (bio-solids) by-products from the Townsends, Inc. agricultural wastewater treatment facility at the poultry plant near Millsboro, that the sludge will be transported to the site by truck, and then sprayed onto the tree farm in specific areas, that trees on the site were cut and cleared off approximately four (4) years ago and have been replaced by the tree farm, that the area has a mixed character of farms and residential uses, that the site is adjacent to other farm lands of the applicant, that north of the site is Route 48, that south of the site is woodlands maintained by Glatfelter Pulpwood, that east of the site are woodlands and residential lots, that a 100' wide buffer is proposed on the south and west and that a 200' buffer is proposed along the adjoining residential lots, that a Project Development Report (PDR) has been established with the cooperation of the State DNREC, the State Department of Agriculture, and State Forestry, that the PDR considers climate, topography, soils, surface and subsurface hydrology, vegetation, on-site ground water quality, suitable land areas, and biosolids characteristics, biosolid component and application rates, and application areas and buffer zones, that land application of biosolids from agricultural waste treatment



facilities is a common and environmentally sound agricultural practice, that forests are extremely effective nutrient recycling systems due to their nutrient uptake and high level of decomposition activity, that forests use large volumes of water through evaporation and transpiration, that forests uptake available nutrients and utilize or store them within wood fiber, that unlike other agricultural products, wood products are not directly consumed by humans, that biosolids act as a fertilizer, that increased forest growth provides benefits through air and water quality protection, wildlife habitat diversity and aesthetics, that less than one-tenth of one percent of the wastewater treated at this facility is derived from the facilities municipal waste, that biosolids are approximately 99 percent water and 1 percent solid, that the biosolids have a light earthy odor similar to wet mulch, that the biosolid contains approximately 8 or 9 percent nitrogen on a dry weight basis, that the biosolids can be applied several times during the 9-month forest growing season, that it is proposed that the total application be split into a maximum of 4 separate applications per year, that since the rate of application is tied directly to the nutrient uptake and storage by the forest vegetation, negative environmental impacts are avoided, that County and State approvals must be obtained prior to the application of biosolids, that since application of biosolids to forest land is new in Delaware, a monitoring project is to be performed to ensure environmental protection, that this project is a cooperative effort of the State Department of Agriculture, the State Forest Service, Townsends, Inc., the University of Georgia Research Foundation, and State DNREC Division of Water Resources, that the monitoring project has been designed to evaluate the soil, vegetation and water within 6 feet and 25 feet of the surface prior to and following biosolids application so that factors directly influenced by the biosolids application will be evaluated to ensure protection, that the growth cycle of trees is cut in half from approximately 30 years to 15 years, that the company plans to spray approximately 16 days per quarter year, that the noise of the sprayer is similar to a farm tractor, that the sprayer uses a one inch nozzle that is approximately 9 feet high on a truck and can spray approximately 60 feet, that the spraying will be performed from 7:00 am to 6:00 pm when applied, that a minimum of ten monitoring wells will be utilized to monitor the site, that the State DNREC has never violated the sludge application process presently in use at the plant site, that approximately 254 acres of the 351 acre site will be utilized, that low lying areas will be excluded, that no ponds exist on the site, that the use will encourage wildlife, that if the use is not approved it may impact the poultry operation and the company's employment, that it may create competitive economic problems for expansion of the poultry operation if the sludge



must be hauled off site to other areas or States, that the Coastal Sussex Land Use Plan Timberlands Map indicates the site within a major wooded area, that the Plan refers that woodlands are a valuable Sussex County natural and economic resource, the two largest crops in Sussex County are soybeans and corn primarily grown for the poultry industry, that soils in Sussex County are acid and low in natural fertility requiring fertilizers, that the site is not located near identified critical natural areas or historic sites, that agri-business employs over 11% of Delaware's work force, that the proximity to major eastern markets and local feed production enables Sussex County to produce more broilers than any other County in the United States, that feed manufacturers are located in Sussex County because of the poultry industry, that agri-business is the leading employer in the State of Delaware with twice as many employees as tourism, construction or real estate, that the applicant is a major employer in Sussex County, that preserving farmland is a main goal of the plan and making agri-business profitable over the long run is part of the permanent solution to farmland preservation, that forested areas contribute to the agricultural economy, that crop production in Sussex County supports poultry farmers who buy grain for feed, that timber stands are important environmentally and through management contribute to the County's economy, that agri-business employs a large segment of the County population and offers year round employment unlike tourism and construction which often offers seasonal employment and often employs workers from outside the County, that Sussex County's past and future are tied to agriculture and poultry, that any change in agriculture will cause after shocks in poultry and other agricultural related businesses that employ many Sussex Countians, that the Land Use Map places the site in an Agricultural District which was created to provide a full range of agricultural activities and protect agricultural lands, a valuable natural resource, and that land disposal for sewer effluent has great merit in the County under controlled conditions, that the State DNREC supports the agricultural utilization of sludge when performed in accordance with the "Guidances and Regulations Governing the Land Treatment of Wastes" adopted in August 1988, that the State DNREC advised that when performed in accordance with the guidelines and regulations, the agricultural utilization of sludge is a safe and effective part of the State's waste utilization program and that the regulations have been developed to ensure protection of the environment, public health and general welfare for the land application of all sludges and wastewaters, that the State Department of Agriculture has advised that based on extensive analysis, the Forest Service within the Department has determined that the application of sludge to forest land is environmentally sound technology and provides numerous natural resource and human



benefits throughout Delaware, that in the LESA analysis the site scored 239 out of 300 points which is above average for Sussex County and indicating that the site is suitable for long-term agricultural production, and that the Department urges the approval of the application due to its relevance and importance to commercial forestry/agriculture and the economic viability of Sussex County, and that representatives of the State DNREC Division of Fish and Wildlife recommend supporting the application of agricultural sludge to the property and advised that current research from Michigan indicates no serious negative effects to wildlife from sludge application in forest ecosystems.

Mr. Fuqua suggested the following conditions for approval; that Townsends, Inc. obtain all required DNREC permits and will comply with all applicable DNREC regulations; that buffer areas will be provided as shown on the site map; and that biosolids will be limited to those produced at the Townsends, Inc. Waste Water Treatment Facility.

Allen Jones, Director of the Delaware Forestry Association and a tree farmer spoke in support of the application.

John Hall, Lisa Workman, David Backus, a Mr. Knutson, and Phyllis Toomey, of the 48 people present in opposition, spoke and expressed concerns about the notification process and size of the public notice signs, that four mobile home park communities exist in the area of the site, that the University of Delaware has reported no value by the use of sludge, that the University has recently stopped research of sludge, that the area already has nitrate problems, that the site does not drain well and holds water in some areas, that the land should be inspected in March when it is the wettest, questioning the impact on wildlife and people who may eat the wildlife, questioning the depth for the proposed monitoring wells, and questioning where sludge was applied or taken from the existing application site.

Mr. Moorehead responded that Townsends Inc. spent approximately \$30,000 to haul the sludge to Maryland where sludge application is a permitted use.

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 Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the District.

The Commission found, based on comments received from the Delaware Department of Agriculture, that the Department urges the approval of this application due to its relevance and importance to commercial forestry/agriculture and the economic viability of Sussex County.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Fallsington sandy Loam, and Kenansville loamy sand, that all of the soil types are relatively free of limitation or have limitations that are easily overcome, that the owner should follow any recommended erosion and sedimentation control practices and maintain vegetative cover, that the Evesboro soils are of Statewide Importance and may be Hydric soils in small depressions, that the Fallsington soils are considered soils of Statewide Importance and Prime Farmland, where drained, and Hydric Soils, and that the Kenansville soils are considered Prime Farmland, that the District recommends that sludge be applied at recommended rates so that the sludge does not runoff but gradually infiltrate into the soil, that a 24 foot wide buffer strip of grass and/or trees adjacent to watercourses should be provided and maintained, 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 that the application was represented by the Complex Manager for Townsends, Inc. and an Attorney who advised the Commission that the Conditional Use is for land application of sludge (bio-solids) by-products from the Townsends, Inc. agricultural wastewater treatment facility at the poultry plant near Millsboro, that the sludge will be transported to the site by truck, and then sprayed onto the tree farm in specific areas, that trees on the site were cut and cleared off approximately four (4) years ago and have been replaced by the tree farm, that the area has a mixed character of farms and residential uses, that the site is adjacent to other farm lands of the applicant, that north of the site is Route 48, that south of the site is woodlands maintained by Glatfelter Pulpwood, and that east of the site are woodlands and residential lots, that a 100' wide buffer is proposed on the south and west and that a 200' buffer is proposed along the adjoining residential lots, that a Project Development Report (PDR) has been established with the cooperation of the State DNREC, the State Department of Agriculture, and State Forestry, that the PDR considers climate,



topography, soils, surface and subsurface hydrology, vegetation, on-site ground water quality, suitable land areas, and biosolids characteristics, biosolid component and application rates, and application areas and buffer zones, that land application of biosolids from agricultural waste treatment facilities is a common and environmentally sound agricultural practice, that forests are extremely effective nutrient recycling systems due to their nutrient uptake and high level of decomposition activity, that forest use large volumes of water through evaporation and transpiration, that forest uptake available nutrients and utilize or store them within wood fiber, that unlike other agricultural products wood products are not directly consumed by humans, that biosolids act as a fertilizer, that increased forest growth provides benefits through air and water quality protection, wildlife habitat diversity and aesthetics, that less than one-tenth of one percent of the wastewater treated at this facility is derived from the facilities municipal waste, that biosolids are approximately 99 percent water and 1 percent solid, that the biosolids have a light earthy odor similar to wet mulch, that the biosolid contains approximately 8 or 9 percent nitrogen on a dry weight basis, that the biosolids can be applied several times during the 9-month forest growing season, that it is proposed that the total application be split into a maximum of 4 separate applications per year, that since the rate of application is tied directly to the nutrient uptake and storage by the forest vegetation, negative environmental impacts are avoided, that County and State approvals must be obtained prior to the application of biosolids, that since application of biosolids to forest land is new in Delaware, a monitoring project is to be performed to ensure environmental protection, that this project is a cooperative effort of the State Department of Agriculture, the State Forest Service, Townsends, Inc., the University of Georgia Research Foundation, and State DNREC Division of Water Resources, that the monitoring project has been designed to evaluate the soil, vegetation and water within 6 feet and 25 feet of the surface prior to and following biosolids application so that factors directly influenced by the biosolids application will be evaluated to ensure protection, that the growth cycle of trees is cut in half from approximately 30 years to 15 years, that the company plans to spray approximately 16 days per quarter year, that the noise of the sprayer is similar to a farm tractor, that the sprayer uses a one inch nozzle that is approximately 9 feet high on a truck and can spray approximately 60 feet, that the spraying will be performed from 7:00 am to 6:00 pm when applied, that a minimum of ten monitoring wells will be utilized to monitor the site, that the State DNREC has never violated the sludge application process presently in use at the plant site, that approximately 254 acres of the 351 acre site will be utilized, that low lying areas will be excluded, that no ponds



exist on the site, that the use will encourage wildlife, that if the use is not approved it may impact the poultry operation and company employment, that it may create competitive economic problems for expansion of the poultry operation if the sludge must be hauled off site to other areas or States, that the Coastal Sussex Land Use Plan Timberlands Map indicates the site within a major wooded area, that the Plan refers that woodlands are a valuable Sussex County natural and economic resource, the two largest crops in Sussex County are soybeans and corn primarily grown for the poultry industry, that soils in Sussex County are acid and low in natural fertility requiring fertilizers, that the site is not located near identified critical natural areas or historic sites, that agri-business employs over 11% of Delaware's work force, that the proximity to major eastern markets and local feed production enables Sussex County to produce more broilers than any other County in the United States, that feed manufacturers are located in Sussex County because of the poultry industry, that agri-business is the leading employer in the State of Delaware with twice as many employees as tourism, construction or real estate, that the applicant is a major employer in Sussex County, that preserving farmland is a main goal of the plan and making agri-business profitable over the long run is part of the permanent solution to farmland preservation, that forested areas contribute to the agricultural economy, that crop production in Sussex County supports poultry farmers who buy grain for feed, that timber stands are important environmentally and through management contribute to the County's economy, that agri-business employs a large segment of the County population and offers year round employment unlike tourism and construction which often offers seasonal employment and often employs workers from outside the County, that Sussex County's past and future are tied to agriculture and poultry, that any change in agriculture will cause after shocks in poultry and other agricultural related businesses that employ many Sussex Countians, that the Land Use Map places the site in an Agricultural District which was created to provide a full range of agricultural activities and protect agricultural lands, a valuable natural resource, and that land disposal for sewer effluent has great merit in the County under controlled conditions, that the State DNREC supports the agricultural utilization of sludge when performed in accordance with the "Guidances and Regulations Governing the Land Treatment of Wastes" adopted in August 1988, that the State DNREC advised that when performed in accordance with the guidelines and regulations the agricultural utilization of sludge is a safe and effective part of the State's waste utilization program and that the regulations have been developed to ensure protection of the environment, public health and general welfare for the land application of all sludges and wastewaters, that the State



Department of Agriculture has advised that based on extensive analysis, the Forest Service within the Department has determined that the application of sludge to forest land is environmentally sound technology and provides numerous natural resource and human benefits throughout Delaware, that in the LESA analysis the site scored 239 out of 300 points which is above average for Sussex County and indicates that the site is suitable for long-term agricultural production, and that the Department urges the approval of the application due to its relevance and importance to commercial forestry/agriculture and the economic viability of Sussex County, and that representatives of the State DNREC Division of Fish and Wildlife recommend supporting the application of agricultural sludge to the property and advised that current research from Michigan indicates no serious negative effects to wildlife from sludge application in forest ecosystems.

The Commission found that the Attorney suggested the following conditions for approval; that Townsends Inc. obtain all required DNREC permits and comply with all applicable DNREC regulations; that buffer areas be provided as shown on the site map; and that biosolids be limited to those produced at the Townsends Inc. Waste Water Treatment Facility.

The Commission found that a Director of the Delaware Forestry Association, a tree farmer, spoke in support of the application.

The Commission found that five (5) of the forty-eight (48) people present in opposition, spoke and expressed concerns about the notification process and size of the public notice signs, that four mobile home park communities exist in the area of the site, that the University of Delaware has reported no value by the use of sludge, that the University has recently stopped research of sludge, that the area already has nitrate problems, that the site does not drain well and holds water in some areas, that the land should be inspected in March when it is the wettest, questioning the impact on wildlife and people who may eat the wildlife, questioning the depth for the proposed monitoring wells, and questioning where sludge was applied or taken from the existing application site.

The Commission found that the Complex Manager responded that Townsends, Inc. spent approximately \$30,000 to haul the sludge to Maryland where sludge application is a permitted use.

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



3. RE: C/Z #1238 - Dr. James Harold Bowen, Jr.

Dr. James Harold Bowen, Jr. was present on behalf of his application to amend the zoning map from B-1 Neighborhood Business to C-1 General Commercial in Broadkill Hundred, located on the south side of Route 9, 900 feet more or less west of Route 290 to be located on a parcel containing 33, 184 square feet more or less.

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

Dr. Bowen stated that the County rezoned the site approximately 4 years ago to B-1 Neighborhood Business for his intended office, that he has requested rezoning to C-1 General Commercial so that his parcel will conform to the zoning and to the permitted uses of the adjoining parcels on either side of his parcel, that he still intends to build an office for his practice on the site, and that he has agreed to conform to the DelDOT requirement which restricts his access to the service road easement that enters at the roofing company and serves all of the parcels within the strip subdivision.

No parties appeared 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 DelDOT, that the site is one of several parcels that are part of the Bryan Subdivision along Route 9, that the applicant has agreed to abide with access arrangements when the property is developed, and that DelDOT reserves the right to request a traffic impact study, if warranted, during the plan approval process.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion Area where the County Council agreed to restrict zoning changes and conditional uses in subdivision approval.



The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Rumford loamy sand which has slight limitations, are relatively free of limitations or that the limitations are easily overcome, that the applicant will be required to follow recommended Erosion and Sedimentation Control Practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil type is considered 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 that the applicant was present and stated that the County rezoned the site approximately 4 years ago to B-1 Neighborhood Business for his intended office, that he has requested rezoning to C-1 General Commercial so that his parcel will conform to the zoning and to the permitted uses of the adjoining parcels on either side of his parcel, that he still intends to build an office for his practice on the site, and that he has agreed to conform to the DelDOT requirement which restricts his access to the service road easement that enters at the roofing company and serves all of the parcels within the strip subdivision.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since adjoining parcels on both sides of the site are C-1 General Commercial and since the rezoning will conform to the adjoining zoning.

RE: C/Z #1239 - Tanger Properties, L.P.

Colin Cohn of Tanger Properties, L.P., John Sergovic, Attorney, Ronald T. Moore of J. A. Moore and Sons, Inc., General Contractors, John Murray of Coast Survey, Inc., Surveyor, Evelyn Maurmeyer of Coastal and Estuarine Research, Inc., Wetlands Consultant, and Gregory Richardson of Traffic Planning and Design, Inc., were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the northwest side of Route 268A, 600 feet northeast of Route One and on the west side of Route 268 to be located on a parcel containing 18.00 acres more or less.

Mr. Lank summarized comments received from the Office of the State Fire Marshal, the Sussex County Engineering Department, the Sussex Conservation District, and DelDOT.



Mr. Sergovic stated that the Coastal Sussex Land Use Plan references to traffic counts were not consistent with current development or widening of Route One, that the Land Use Plan does not contain suggestion for improvements to Route One, that the Land Use Plan recommends and acknowledges tourism and the need for suitable services to support and expand the tourism industry, that the general area has developed in support of tourism, that tourism and agriculture are the two top employee benefactors, that agriculture and tourism must be balanced, that development of this type of facility will provide year round employment opportunities, and that the Land Use Plan recommends that commercial activities should be along Route One.

Mr. Cohn stated that the company has been in operation since 1981, that the company was one of first factory outlet companies to go public, that the company operates 25 outlet centers, that the success of the company has been influences by support of the host communities, that the company is unique in that it supports community aid and community involvement, that the company still owns all of the outlets that it has built, that local businesses will benefit by supporting the outlets and the outlets will benefit by supporting the local businesses, that the company will contribute to the local fire company to support fire protection and safety, that the area is an excellent tourist market, that the area is underserved by high quality stores, that the Baltimore, Washington, D.C., and Wilmington area will support the off-season use of the outlets.

Mr. Moore stated that he was impressed by the companies good neighbor attitude, that the company does not intend to impact the environment, that the company proposes to bridge the wetlands rather than place a culvert and fill the wetlands, that the company proposes to exceed the parking requirements, that the company proposes a wide area for pedestrian uses, and that the company will maintain cooperation with all agencies.

Ms. Maurmeyer stated that she conducted on site field inspections of the site and delineated the wetlands on the site, that there should be a net increase in wetlands on the site, that the proposed bridge will create an elevated causeway entrance off of Route One, that the cost of the bridge will be at least double the cost of a culvert and fill, that the elevated bridge will enhance the project.

Mr. Murray stated that the conversion of farmland to commercial with stormwater management and erosion control management will create a lesser discharge into the wetlands, that the farming operation has no stormwater management or filtration of runoff, that the sanitary sewer will be handles with holding tanks until the County sewer project is completed, that no



encroachments are proposed into setback by buildings are parking areas, that water will be supplied by Tidewater Utilities.

Mr. Richardson stated that Traffic Planning and Design, Inc. analyzed the site to respond to DelDOT concerns, that the proposed outlet facility is designed to provide for more time spent on-site by patrons, that on September 6, 1994 the company met with DelDOT officials on the site and discussed access to the site and improvements intended to mitigate any impacts, that a traffic impact study will be performed if the rezoning is approved, that on Route One rights in and rights out will be permitted, and that on Route 268 lefts in, lefts out, rights in, and rights out will be permitted.

Mr. Cohn stated that the company plans a 250,000 square foot outlet facility for a possible 60 stores on the one site, that originally the intent was to develop on both sides of Route 268A, that the contracts on the additional lands provide for a self contained project on one site, that the project should create 400 to 500 jobs year-round, that nationally recognized name stores are proposed, that the outlets will help create an extended tourist season, that historically Tanger Outlets draw from residents within two hours of the site, that the agreement with the Lewes Fire Company is the first of its kind developed by the company, that the project will help pay for infrastructure, that no arcades are proposed, that security has never been a problem, that the company takes pride in its cleanliness of restrooms and trash control, and that the wetlands will not be disturbed.

Mr. Sergovic stated that the site can be developed commercially within the existing zone and suggested that the Commission consider the Coastal Sussex Land Use Plan guide that shopping areas should be centrally located.

The representatives of the application submitted a package of promotional material, two letters from the Lewes Fire Department, Inc., site plans, and copies of correspondence between Traffic Planning & Design, Inc. and DelDOT.

John Brady and Julia Savage, adjoining land owners spoke in support of the application and stated that presently transportation problems do exist and that the proposed improvements will alleviate some of those traffic problems, that the developer will complete the improvements faster than the State, that they have no objection to a parking lot in their backyard, that the Fire Company will benefit by donations, and that the project should help the economy by off-season support of the facility.



William Press, Angie Venti, Dr. Coveleski, Nina Dody Canoda, James Ford, Jane Nicholson, Eric Masten, Michael Krause, Michael Tyler, Mabel Granke, and Kim Abasian, of the 44 people present in opposition, expressed opposition to the application and expressed concerns that there was not a need for the use, that adequate store space should be available in the area between Nassau and Rehoboth, that the area around the site has to deal continuously with ferry terminal traffic, that DelDOT may require additional traffic signals, that a traffic signal with vehicles waiting for traffic signals will delay even more the amount of time a person must wait to get out of their own driveway, that the project should negatively affect property values, that zoning was create to protect the residents not a developer, that the use does not fulfill a need, that the Coastal Sussex Land Use Plan supports maintaining agriculture and existing zoning, that at least 300 stores or shops are available within close proximity to the area, that a precedent may be established for additional rezoning, that the area already looks like the area of Route 13 in Dover, that the use damages the quality of life for the Lewes area, traffic will increase and impact all of the towns in the area, that a moratorium on rezoning and site plan approvals should be created until the Land Use Plan is amended, that the rezoning adds an additional 18 acres of commercial to an already overcrowded area, that the existing parcel across Route 268A can still be developed since it is already zoned commercial, that other outlets have recently been permitted and several projects are in the process of obtaining approvals, that vacant stores already exist in the area, that industry is needed, not additional stores, that existing stores will be negatively impacted, that jobs will not increase only relocate, that the County has historically neglected to consider the area and considers only individual sites, that a comprehensive plan is needed for the area, that surveys of the area indicate that people do not come to this area to shop at outlets, they come to the area to sightsee and use the beach, that a comprehensive transportation plan needs to be established before any further rezoning or site plans are approved, and that the project will create a loss in the quality of life for the residents of the area.

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 State Fire Marshal, that plans are being reviewed, but have not been approved.



The Commission found, based on comments received from the Sussex County Engineering Department, that site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the Department anticipates sewer service to be available by the fourth quarter of 1995, that the County will accept holding tank wastewater at the Inland Bays or South Coastal Regional Wastewater Facilities in the interim, that capitalization fees or connection charges will be required, that wastewater capacity will be allocated to the property based on 1000 gallons per acre for commercially zoned undeveloped land and 300 gallons per Equivalent Dwelling Unit times the allowable density of the Land Use Plan for undeveloped AR-1 land.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam which are relatively free of limitations or have limitations that are easily overcome, that the developers shall be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil types are considered of Statewide Importance or Prime Farmland, that the developers should maintain grassed buffer strips, at least 24 feet wide between open fields and watercourses, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements as long as stormwater practices are implemented.

The Commission found, based on comments received from DelDOT, that in a preliminary assessment of the traffic impact the Department advised that if the Commission approved the application the result would be a significant negative impact on the traffic situation in the area, that the Department's Sussex 2005 Study recommended a program of transportation system improvement projects which are primarily expansions of the road system and are essential to provide adequate levels of service to the area, that DelDOT currently maintains a moratorium on the expansion projects, such as the design and construction of a service road or bypass to Route One, that Route One cannot adequately accommodate development without a bypass and that the Department has determined that a traffic impact study is not needed to demonstrate the inadequacy of Route One, that the Department has waived the traffic impact study requirement for this application with the understanding that the developer will conduct a traffic impact study as a part of his entrance plan approval application, that the traffic impact study will determine what improvements are necessary for the safe and efficient access of the site, that any improvements will be at the expense of the developer, that based on the possible amount



of additional traffic generated by the site a significant contribution to congestion is anticipated on Route One, that if the Council chooses to approve the application DelDOT recommends that the Council require the developer to construct a pedestrian connector with the portion of the site across Route 9 (Route 268A), require the developer to execute certain signal agreements, require the developer to construct a bus pull-off to provide access to Delaware Resort Transit, require the developer to construct highway widening, culvert widening, intersection and entrance improvements to provide safe and efficient access for vehicles, that these improvements will contribute to safe and efficient traffic operations on Route One and Route 9 (268A), that approval of the rezoning and the increase in traffic to Route One would worsen an already declining level of service in the area, that due to the mandates of the Clean Air Act Amendments the Department is no longer confident that they will be able to build additional highway capacity, and that the Department will have to examine the feasibility of expanding other modes of transportation in this area before considering adding highway capacity.

The Commission found, based on additional comments received from DelDOT, that the Department has met on the site with representatives of the applicant and found that the developer does not intend to develop the site across Route 9 (268A) at this time, that the recommendation that a pedestrian connector is not applicable until the area across Route 9 (268A) is developed, that traffic figures from other Tanger Outlets suggest that the average daily traffic estimates would be less than reported, that the firm of Traffic Planning and Design, Inc. will proceed with a traffic impact study if the application is approved, and that the developer has expressed a willingness to make the necessary improvements to accommodate safe access and mitigate traffic impacts.

The Commission found that the application was represented by a company representative, an attorney, a general contractor, a surveyor, a wetlands consultant, and a traffic consultant.

The Commission found that the Attorney present on behalf of the application stated that the Coastal Sussex Land Use Plan references to traffic counts were not consistent with current development or widening of Route One, that the Land Use Plan does not contain suggestions for improvements to Route One, that the Land Use Plan recommends and acknowledges tourism and the need for suitable services to support and expand the tourism industry, that the general area has developed in support of tourism, that tourism and agriculture are the two top employee benefactors, that agriculture and tourism must be balanced, that development



of this type of facility will provide year round employment opportunities, and that the Land Use Plan recommends that commercial activities should be along Route One.

The Commission found that a Tanger Properties representative stated that the company has been in operation since 1981, that the company was one of first factory outlet companies to go public, that the company operates 25 outlet centers, that the success of the company has been influenced by support of the host communities, that the company is unique in that it supports community aid and community involvement, that the company still owns all of the outlets that it has built, that local businesses will benefit by supporting the outlets and the outlets will benefit by supporting the local businesses, that the company will contribute to the local fire company to support fire protection and safety, that the area is an excellent tourist market, that the area is underserved by high quality stores, that the Baltimore, Washington, D.C., and Wilmington area will support the off-season use of the outlets.

The Commission found that the proposed general contractor stated that he was impressed by the companies good neighbor attitude, that the company does not intend to impact the environment, that the company proposes to bridge the wetlands rather than place a culvert and fill the wetlands, that the company proposes to exceed the parking requirements, that the company proposes a wide area for pedestrian uses, and that the company will maintain cooperation with all agencies.

The Commission found that the wetlands consultant stated that she conducted on site field inspections of the site and delineated the wetlands on the site, that there should be a net increase in wetlands on the site, that the proposed bridge will create an elevated causeway entrance off of Route One, that the cost of the bridge will be at least double the cost of a culvert and fill, that the elevated bridge will enhance the project.

The Commission found that the surveyor stated that the conversion of farmland to commercial with stormwater management and erosion control management will create a lesser discharge into the wetlands, that the farming operation has no stormwater management or filtration of runoff, that the sanitary sewer will be handles with holding tanks until the County sewer project is completed, that no encroachments are proposed into setback by buildings are parking areas, that water will be supplied by Tidewater Utilities.



The Commission found that the traffic consultant stated that Traffic Planning and Design, Inc. analyzed the site to respond to DelDOT concerns, that the proposed outlet facility is designed to provide for more time spent on-site by patrons, that on September 6, 1994 the company met with DelDOT officials on the site and discussed access to the site and improvements intended to mitigate any impacts, that a traffic impact study will be performed if the rezoning is approved, that on Route One rights in and rights out will be permitted, and that on Route 268 lefts in, lefts out, rights in, and rights out will be permitted.

The Commission found that the Tanger Properties representative also stated that the company plans a 250,000 square foot outlet facility for a possible 60 stores on the one site, that originally the intent was to develop on both sides of Route 268A, that the contracts on the additional lands provide for a self contained project on one site, that the project should create 400 to 500 jobs yearround, that nationally recognized name stores are proposed, that the outlets will help create an extended tourist season, that historically Tanger Outlets draw from residents within two hours of the site, that the agreement with the Lewes Fire Company is the first of its kind developed by the company, that the project will help pay for infrastructure, that no arcades are proposed, that security has never been a problem, that the company takes pride in its cleanliness of restrooms and trash control, and that the wetlands will not be disturbed.

The Commission found that the Attorney also stated that the site can be developed commercially within the existing zone and suggested that the Commission consider the Coastal Sussex Land Use Plan guide that shopping areas should be centrally located.

The Commission found that the representatives of the application submitted a package of promotional material, two letters from the Lewes Fire Department, Inc., site plans, and copies of correspondence between Traffic Planning & Design, Inc. and DelDOT.

The Commission found that two adjoining land owners spoke in support of the application and stated that presently transportation problems do exist and that the proposed improvements will alleviate some of those traffic problems, that the developer will complete the improvements faster than the State, that they have no objection to a parking lot in their back yard, that the Fire Company will benefit by donations, and that the project should help the economy by off-season support of the facility.



The Commission found that 11 of the 44 people present in opposition, expressed concerns that there was not a need for the use, that adequate store space should be available in the area between Nassau and Rehoboth, that the area around the site has to deal continuously with ferry terminal traffic, that DelDOT may require additional traffic signals, that a traffic signal with vehicles waiting for traffic signals will delay even more the amount of time a person must wait to get out of their own driveway, that the project should negatively affect property values, that zoning was create to protect the residents not a developer, that the use does not fulfill a need, that the Coastal Sussex Land Use Plan supports maintaining agriculture and existing zoning, that at least 300 stores or shops are available within close proximity to the area, that a precedent may be established for additional rezoning, that the area already looks like the area of Route 13 in Dover, that the use damages the quality of life for the Lewes area, traffic will increase and impact all of the towns in the area, that a moratorium on rezoning and site plan approvals should be created until the Land Use Plan is amended, that the rezoning adds an additional 18 acres of commercial to an already overcrowded area, that the existing parcel across Route 268A can still be developed since it is already zoned commercial, that other outlets have recently been permitted and several projects are in the process of obtaining approvals, that vacant stores already exist in the area, that industry is needed, not additional stores, that existing stores will be negatively impacted, that jobs will not increase only relocate, that the County has historically neglected to consider the area and considers only individual sites, that a comprehensive plan is needed for the area, that surveys of the area indicate that people do not come to this area to shop at outlets, they come to the area to sightsee and use the beach, that a comprehensive transportation plan needs to be established before any further rezoning or site plans are approved, and that the project will create a loss in the quality of life for the residents of the area.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use would be compatible to the area, and since the rezoning and use would be in keeping with the present zoning and development trend of the area.

5. RE: Ordinance to Amend Zoning Ordinance  
Relating to Park Model Campers

Mr. Lank summarized the proposed Ordinance to amend the Zoning Ordinance as it relates to house trailers in park or campground for mobile campers.



The Commission discussed the units and their locations.

Mr. Ralph stated that he has visited a campground containing Park Model Trailers and has inspected some of the units, questioned why an individual should not be comfortable when camping, and stated that the units appear to be set up the same way as any other camping trailer and should be easily moveable.

Jerry Adkins, owner of Treasure Beach Campground, spoke in opposition to the amendment and stated that the park model issue has been around for 2 or 3 years and needs to be resolved, that the Division of Motor Vehicle and Zoning Department have both had problems relating to park models, that the units are easily moved, that there are approximately 170 park models in Treasure Beach, that the units are shipped in from Florida or elsewhere and set up at a campground site, the towing tongue remains on the unit and that the unit is movable if necessary, that it takes approximately 30 minutes to prepare a unit to move, that Sussex County will not be inundated with park model trailers, that all other Jurisdictions allow the units, that in flood areas some jurisdictions require anchoring and solid block piers.

John Sergovic, Attorney on behalf of Treasure Beach, spoke in opposition to the amendment and stated that the overall regulations should provide for temporary closure of campgrounds so that the units are not considered permanent, and that the units are insured under general insurance policies.

Kenin Sager, operator of Sandy Beach Campground, spoke in opposition to the amendment and stated that the size of the units was never the issue, that some of the units have tip-outs and/or slide-outs, and that the units are mobile.

Delores Harrison spoke in opposition to the amendment and stated that if a flood takes place the residents of park model trailers will act the same as mobile home residents, they will leave the area without the unit.

Virginia Desantus, an owner of a park model trailer, spoke in opposition to the amendment and stated that a park model is a recreational vehicle, that the units are comfortable, that the sites are used seasonally, that the units are stored on the site permanently, and that the size of the units should not be an issue.

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 that five (5) people spoke in opposition to this amendment and expressed concerns that the park model issue has been around for 2 or 3 years and needs to be resolved, that the Division of Motor Vehicle and Zoning Department have both had problems relating to park models, that the units are easily moved, that there are approximately 170 park models in Treasure Beach, that the units are shipped in from Florida or elsewhere and set up at a campground site, the towing tongue remains on the unit and that the unit is movable if necessary, that it takes approximately 30 minutes to prepare a unit to move, that Sussex County will not be inundated with park model trailers, that all other Jurisdictions allow the units, that in flood areas some jurisdictions require anchoring and solid block piers, that the overall regulations should provide for temporary closure of campgrounds so that the units are not considered permanent, that the units are insured under general insurance policies, that the size of the units was never the issue, that some of the units have tip-outs and/or slide-outs, that the units are mobile, that if a flood takes place the residents of park model trailers will act the same as mobile home residents, they will leave the area without the unit, that a park model is a recreational vehicle, that the units are comfortable, that the sites are used seasonally, that the units are stored on the site permanently, and that the size of the units should not be an issue.

Motion by Mr. Ralph, seconded Mr. Lynch, and carried unanimously to forward the proposed amendment to the Sussex County Council with the recommendation that it be denied as circulated.

### III. Other Business

1. RE: Subdiv, #94-5 - C-Con Development Corp.

Mr. Lank advised the Commission that the applicants have requested that the Commission permit the applicants to appeal their denial and resubmit additional information for their subdivision proposal since the Division of Highways has no objection to its recordation.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to affirm the decision that the subdivision be denied.

2. RE: Raymond Banks, Jr.

The Commission reviewed a concept to create a 3.17 acre lot with access from a 50' wide right of way west of Route 349.



Mr. Lank advised the Commission that the right of way is a widening of an existing 12' wide cartway that serves other parcels and that if the Commission is favorable toward the creation of the lot, then the lot should have a minimum frontage of 100' along the 50' right of way.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the concept with the stipulation that a minimum frontage of 100' be provided for the proposed lot.

3. RE: Bethany Bay Phase 5 Sections 1.7 & 1.8

Mr. Lank advised the Commission that the developers have requested that they be permitted to build larger homes than the proposed 36' by 40', that the buildings will maintain the proposed 20' spacing as originally submitted, and that the increase in dimensions will reduce the number of units built in this Phase.

Motion by Mr. Lynch, seconded by Mrs. Monaco, and carried unanimously to approve the concept.

IV. Old Business

1. RE: C/U #1087 - David L. Wilson

No parties appeared on behalf of the application of David L. Wilson to consider the Conditional Use of land in an AR-1 Agricultural Residential district in Cedar Creek Hundred for Indoor/Outdoor Auction, Farm Equipment Sales, New and Used Indoor/Outdoor Auction Items, Farmers Market and Auction, Wholesale and Retail, Restaurant and Snack Bars, Assembly Hall, Storage and Warehousing, Tent Sales, and Parking Area, lying on the west side of Route 113, approximately 910 feet north of Route 623 to be located on a parcel containing 32.39 acres more or less.

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

Motion by Mrs. Monaco, seconded by Mr. Phillips, and carried 4 votes to 1, with Mr. Ralph opposing the motion, to forward this application to the Sussex County Council with the recommendation that it be denied since the existing site appears to be adequate for the proposed expansion if the site is cleaned up and since there appears to be no need for another auction facility in the area.

Meeting adjourned at 12:05 A.M.