

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 25, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 25, 2014, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton, III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank, Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 11, 2014 as amended. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2013-8 – Jack Lingo Management, LLC

Application of **JACK LINGO MANAGEMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 34.65 acres into 97 lots (Environmentally Sensitive Developing District Overlay Zone) located south of Road 275 (Warrington Road) approximately 650 feet west of Road 274 (Old Landing Road) (Tax Map I.D. #3-34-12.00-122.03).

Mr. Abbott advised the Commission that this is the final record plan for an 84 lot Environmentally Sensitive Developing District Overlay Zone cluster subdivision application; that the Commission granted preliminary approval for 85 lots on October 10, 2013; that the final record plan includes 15 lots that were approved as a part of the bonus density program; that the bonus density fee to the County is \$300,000.00; that the final record plan complies with the Subdivision and Zoning Codes and the conditions of preliminary approval; that all agency approvals have been received; and that the Commission was previously provided a copy of the record plan and a copy of the landscaping plan.

Mr. Johnson advised the Commission that there is a small pool house adjacent to the pool which includes restrooms.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve this application as a final. Motion carried 5 – 0.

PUBLIC HEARINGS

Change of Zone #1758 – Dozer, LLC c/o Hal Dukes

Application of **DOZER, LLC c/o HAL DUKES** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density

Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 7.2035 acres, more or less, land lying north of Double Bridges Road (Road 363) east of Parker House Road (Road 362) (911 Address: None Available) (Tax Map I.D. #1-34-19.00-19.00 (Part of).

The Commission found that the applicants submitted a survey/site plan with the application.

The Commission found that the applicants submitted an Exhibit Booklet on September 12, 2014 which provides an introduction; copies of parts of the Comprehensive Future Land Use Plan Map; a copy of a deed transferring a pump station to Sussex County; a DNREC/Artesian Resources email approving individual wells for the project; a copy of the application; a copy of the deed to the property; a map depicting the zoning in the area; an aerial photograph; a copy of a letter from County Engineering approving the construction of sewer to the property; a copy of Nationwide Wetland Impact Permit #12 for the sanitary sewer extension; soils information; a report on existing site conditions; a copy of the Flood Insurance Rate Map for the area; proposed subdivision design information; references to compliance with Subdivision Ordinance Section 99-9C; suggested proposed Findings of Fact; suggested proposed Conditions of Approval; and suggested proposed Declaration of Restrictions.

The Commission found that DelDOT had provided comments in the form of a Support Facilities Report, dated July 14, 2014, which references that a traffic impact study was not recommended and that the current Level of Service “B” of Double Bridges Road and the current Level of Service “A” of Parker House Road will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division had provided comments in the form of a Memorandum, dated September 19, 2014, which references that the project is located in the Miller Creek Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$5,500.00 per EDU; that an 8-inch sewer stub has been provided; that the stub is located along the parcel’s westerly frontage on Double Bridges Road; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that the proposed project is a recent expansion area and that sanitary sewer service is available; that the project as proposed is within planning study assumptions for sewer service and there will be adequate capacity for the project as proposed; that the County requires design and construction of the collection and transmission system to meet County Engineering Department requirements and procedures; that the County Engineer must approve the connection point; and that a sewer concept plan must be submitted for review and approval prior to any sewer connections.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated September 19, 2014, which references that there are two soil types on the project site; that the developers shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that the project is not located in a storm flood hazard area; that it is possible that the proposed project

will necessitate off-site drainage improvements; that on-site drainage improvements will be required; and that no tax ditches are affected.

Mr. Lank advised the Commission that this is a zoning application only, not an application to subdivide the property.

Mr. Wheatley reminded the Commission that the Commission is only considering whether it is appropriate to rezone the property, not the details of a subdivision.

The Commission found that Harold Dukes, Esquire of Tunnell & Raysor, P.A. was present on behalf of this application with Ken Christenbury, Professional Engineer with Axiom Engineering, and that they stated in their presentations and in response to questions raised by the Commission that their intent is to rezone the property so that they can develop smaller lots for single family detached homes, similar to the trend of development in the area; that 6 months ago they had applied for a cluster subdivision in the AR-1 District, not realizing that they would be required to have central sewer and central water for such an application; that central water is not yet available; that they are proposing the development of a major subdivision of 14 lots; that the property is located in the Miller Creek Sanitary Sewer District; that the property is located in a Mixed Residential Area according to the Comprehensive Plan Update of 2008; that the property is located in the Environmentally Sensitive Developing District Overlay Zone, which allows for the subdivision of 7,500 square foot lots served by central sewer and central water; that the applicants have dedicated a portion of the property to the County for the installation of Pump Station #286 for the Sewer District; that the Public Service Commission has issued a Certificate of Public Convenience and Necessity to Artesian Water Company to provide central water to the property; that subsequent to the addition of these lands to the Sewer District no extensions of central water have been made in the vicinity of the property; that Artesian Water Company has issued a statement to the State DNREC's Well Permitting Branch indicating that individual wells would be appropriate for the property; that when the applicants dedicated the land for the pump station, it was with the anticipation that the land could be developed in similar fashion to the surrounding GR zoned lands; that AR-1 lands without central water have a minimum lot size of 20,000 square feet; that the applicants request for this application would allow an MR subdivision with 10,000 square foot lots that are served by central sewer and individual wells, in character with the existing subdivision in the area; that the applicants own 14.6 acres, the entire parcel; that this request for rezoning only includes approximately half of that acreage; that the residual acreage will remain AR-1; that plans to construct a sanitary sewer extension from Pump Station #286 to the property have been approved by the Engineering Department; that portions of the sanitary sewer are to be installed under 404 Wetlands regulated by the U.S. Army Corps. of Engineers; that the Corps. have issued a Nationwide Permit 12 permitting said installation from Pump Station #286 to the property; that no additional wetland impact permits are anticipated for the construction of the subdivision; that they general trend of development in the area is GR General Residential zoning with 10,000 square foot lots improved with manufactured homes and dwellings; that 5 minor subdivision lots have been approved by DeIDOT and the Planning Department staff; and that sewer is being made available to the 5 lots and the proposed subdivision, if approved.

Mr. Lank advised the Commission that MR zoning and GR zoning are similar in lot size for residential use; that MR zoning is the most restrictive zoning classification in the residential classifications; that MR zoning is limited to single family residential dwellings and modular; that GR zoning permits single family residential dwellings, modular, and manufactured homes; and that GR zoning also permits many uses permitted in the AR-1 zoning classification.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Conditional Use #1996 – Hector Patraca Carmona

Application of **HECTOR PATRACA CARMONA** to consider the Conditional Use of land in a C-1 General Commercial District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 15,285 square feet, more or less, land lying west of U.S. Route 113 (DuPont Boulevard) 800 feet south of Road 380 (Parker Road) (911 Address: 34892 DuPont Boulevard, Frankford, DE) (Tax Map I.D. #5-33-4.00-13.00).

The Commission found that the applicant provided a survey/site plan of the property with his application.

The Commission found that DelDOT provided comments on March 25, 2014 in the form of a letter and a Support Facilities Report referencing that the subject property is located adjacent to U.S. Route 113 and is subject to the Department's Corridor Capacity Preservation Program; that the property is located within a Level 3 Investment Area according to the State Strategies; that the property owner can develop a rights-in/rights-out access to U.S. Route 113 for a site generating an average of 200 vehicle trips per day; that a Traffic Impact Study is not recommended; and that the current Level of Service "B" of U.S. Route 113 will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on September 19, 2014 referencing that the property is located in the Western Sussex Planning Area #5; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on September 19, 2014 referencing that there are two soil types on this property; that the developer shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that no on-site or off-site drainage improvements will be necessary; and that no tax ditches are affected.

The Commission found that Hector Patraca Carmona was present with Jaime Sanchez and Holly Carmack, and that they stated in their presentations and in response to questions raised by the Commission that a taco stand is proposed; that the stand will be open year round for 6 days per week; that the stand will be closed on Wednesdays; that they are proposing to be open from 11:00 am to 9:00 pm; that they would like to install a lighted sign; that parking is proposed as indicated on the site plan; that Mr. Carmona and his wife are the only employees; that Mr. Carmona owns the property; that they would like to have permission to utilize a porta-toilet; that they may have small gatherings on the site; that that he currently does not need any more than a residential trash container for trash; that waste water is dumped on the ground; and that cooking oils are stored and then recycled and hauled away by a licensed handler.

Mr. Lank advised the Commission that the applicant was given notice of the violation for operating the business, and that the applicant did make application after completion of the necessary information to apply.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Conditional Use #1997 – Skipjack, Inc.

Application of **SKIPACK, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a commercial propane/storage and cng/propane dispensing office/warehouse to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 15.00 acres, more or less, land lying northwest corner of DuPont Boulevard (U.S. Route 113) and East Piney Neck Road (Road 329) (911 Address: None Available) (Tax Map I.D. #133-11.00-1.00).

The Commission found that the applicants provided a survey/site plan with the application.

The Commission found that on September 12, 2014 the applicants provided an Exhibit Booklet which contains a site plan of the proposed facility; a location map of the proposed facility and proximity to other business uses; a color rendering of the proposed office/warehouse building with proposed signage; photo examples of compressed natural gas (CNG)/propane fueling stations; letters of support from the local community and map of nearby supporters; suggested proposed Findings of Fact for consideration; and suggested proposed Conditions of Approval for consideration.

The Commission found that DelDOT provided comments, dated January 30, 2014 and September 19, 2014, in the form of letters and a Support Facilities Report referencing that the subject property is located adjacent to U.S. Route 113 and is subject to the Department's Corridor Capacity Preservation Program; that the property is located within a Level 3 Investment Area according to the State Strategies; that the property owner can develop a rights-in/rights-out

access to U.S. Route 113 for a site generating an average of 200 vehicle trips per day; that the property owner can develop a full access to East Piney Grove Road (Road 329); that a Traffic Impact Study is not recommended; and that the current Level of Service “C” of U.S. Route 113 will not change as a result of this application; and that the current Level of Service “A” of East Piney Grove Road may change to a Level of Service “B”.

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 19, 2014 in the form of a memorandum referencing that the property is located in the Western Sussex Planning Area #5; that the use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on September 19, 2014 referencing that there are five soil types on this property; that the developer shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that on-site drainage improvements may be necessary; and that a tax ditch/branch may be affected, and all considerations/activities should be taken to minimize any impacts on the ditch/branch.

The Commission found that Mark Dunkle, Esquire with Parkowski, Guereke & Swayze, P.A. was present on behalf of the applicants with Garth Jones, Professional Engineer with Becker Morgan Group, Shane Breakle, David DeCard and Ron Patrick of Chesapeake Utilities, and that they stated in their presentations and in response to questions raised by the Commission that Skipjack, Inc. is a subsidiary of Chesapeake Utilities; that the use intended is for a Compressed Natural Gas/Propane vehicle fuel dispensing facility, commercial propane sales and storage, with offices and warehousing; that this type of facility is new to the area since that are preparing a fueling station to provide for alternative fuels, i.e. natural gas and propane, for automotive vehicles; that there are several business uses in close proximity, i.e. M. L. Joseph Construction Co., Pep-Up, and others; that there are two Conditional Use locations on East Piney Grove Road and referenced a storage facility and a truck repair; that a propane storage facility, office, and single propane dispensing facility exists at Sharp Gas in Georgetown; that the photographs in the Exhibit Booklet depict several propane and natural gas fueling stations that exist in other locations; that there are 17 letters of support in the Exhibit Booklet from area businesses and landowners; that the Exhibit Booklet contains some suggested proposed Findings of Fact and Conditions of Approval; that the requested use is an appropriate use and meets the standards for a Conditional Use; that Chesapeake Utilities are in the process of installing natural gas lines to the Stockley Center and the Sussex Central High School; that there are propane filling stations serving propane gas for vehicles in use and some of those facilities have been in service for 20 years; that two buildings are proposed along U.S. Route 113, an 18,000 square foot office and warehouse, and a 7,500 square foot office and warehouse; that two access locations are proposed along East Piney Grove Road, one for access to the offices, and one to the filling station and storage facilities; that there will not be any parking in the required setbacks; that a 60’ wide

easement is proposed to cross the parcel to serve the remaining acreage to the north from East Piney Grove Road; that they are requesting permission to be permitted to have signage related to the B-1 Neighborhood Business District; that the filling station would be open 24 hours 7 days per week; that there will be approximately 64 employees working from the site, some drivers, and the majority office staff; that some of their existing facilities will be closed and the employees will be relocated to this facility; that they are not planning to operate a convenience store from this site, only fuel sales; that no vehicles will be serviced on the site; that both Compressed Natural Gas and Propane Gas will be available; that the compressors will have electric driven motors; that the gas will be compressed to 3,600 PSI; that the compressors will be outside in sound enclosed containers; that they will comply with all agency requirements; that the State Fire Marshal has the majority of the regulations relating to these facilities; that the systems have safety features, including automatic shutdowns, specific setbacks from structures and equipment, 30,000 gallon water storage; that that 4 – 30,000 gallon propane storage tanks are proposed for this site; that the office/warehouse facility would be open during normal business hours; that the propane tanks will be filled from tanker trucks, not pipelines; that the facility will be fenced with a 6-foot high chain-link fencing; and that security lighting and security cameras will be installed.

The Commission found that Terry Timmons was present in support of the application and stated that natural gas will be a benefit to the County and the general area once available.

The Commission found that Ray Hopkins was present in support of the application and stated that he was present to support the creation of more jobs for County residents.

The Commission found that there were no parties present in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use #1997 for Skipjack, Inc. for a commercial propane/storage and CNG/propane dispensing office/warehouse based upon the record made during the public hearing and for the following reasons:

- 1) The use is located along Route 113, which is a major highway in Sussex County. This is an appropriate location for the proposed use and it is centrally located in the County.
- 2) The use is of a public or semi-public character that will provide a safe and convenient alternate fuel dispensing facility, along with propane storage, office and warehouse uses serving the emerging alternate fuel market.
- 3) The design will meet all state and national fire regulations. It will also be required to adhere to Federal and State regulations governing the construction and operation of this type of facility.
- 4) The use is consistent with other zoning districts and business and commercial uses in the area of Route 113. These include a crematorium, a construction and hot mx production facility, manufactured home sales, equipment rental, mulch and stone paver sales, tractor and mower sales and service, and a fuel oil and propane dealership.

- 5) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties, the community or area roadways.
- 6) The project adds employment in Sussex County
- 7) This recommendation for approval is subject to the following conditions and stipulations:
 - A. The Applicant shall comply with all DelDOT entrance and access requirements.
 - B. The Applicant shall comply with all State, Federal and Local regulations regarding the facility.
 - C. Any security lights shall be screened so that they do not shine on neighboring properties or roadways.
 - D. The Applicant shall comply with the landscape buffering requirements of the Highway Corridor Overlay Zone and the landscape plan shall be included as part of the Final Site Plan.
 - E. The Applicant shall have two lighted signs, not to exceed 200 square feet per side. One sign shall be located along Route 113 and the other shall be located along East Piney Grove Road.
 - F. The conditions of approval shall be noted on the Final Site Plan.
 - G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 5 – 0.

OTHER BUSINESS

The Overlook MR/RPC

CZ #1611 Final Record Plan Phase 1 – Road 58B

Mr. Abbott advised the Commission that this is the final record plan for Phase 1 of The Overlook MR/RPC; that this Phase contains 54 single family lots, 78 detached single family units and 36 townhouse units for a total of 168 units on 148.4 acres; that Phase 2 contains 5 townhouse units and will be submitted at a later date; that 173 units are permitted by the approved Ordinance; that the final record plan is the same as the revised preliminary plan that the Commission approved on September 13, 2012; that the final record plan complies with Chapters 99 and 115 and the conditions of approval; that all agency approvals have been received; that the Commission was previously provided a copy of the final site plan and a copy of the landscape plan; and that this project was approved prior to the current buffer ordinance being adopted.

Mr. Smith advised the Commission that Leyland Cypress trees are proposed along the boundary line with Mallard Lakes and questioned if the applicants would be willing to change those types of plantings with another species since Leyland Cypress tend to have problems.

Frank Kea of Solutions, IPEM advised the Commission that the developer will change the Leyland Cypress to a more suitable type of planting for the area and will submit a revised landscape plan.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a final with the stipulation that a revised landscape plan be submitted to the staff. Motion carried 5 – 0.

**Subdivision #2005 – 95 Harlton Acquisitions, LLC
Revised Preliminary Harlton Subdivision**

Mr. Abbott advised the Commission that this is a revised preliminary plan for a 191 lot Environmentally Sensitive Developing District Overlay Zone cluster subdivision application; that the Commission originally granted preliminary approval for 197 lots on February 8, 2007; that preliminary approval is valid until January 1, 2016; that the revised plan is reduced by 6 lots; that the Commission needs to determine if the revisions are significant to warrant a new application; that the Commission was previously provided a copy of the revised preliminary plan and an illustrative rendering of the previously approved preliminary plan; that the street design has changed, that an entrance is now proposed off of Road 348; that the Commission was also previously provided a copy of the conditions of approval for the previously approved plan; that if the Commission is favorable towards this request, the Commission should incorporate the same conditions with the exception of the number of lots proposed; and add the condition that a revised preliminary plan shall be submitted to the staff depicting and noting the conditions of this approval on it.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the revised plan as a revised preliminary with the stipulation that the conditions of approval for the original preliminary approval apply to this revised plan with the exception of the number of lots permitted and the condition requiring a revised preliminary plan being submitted to the staff noting or depicting the conditions of the approval on the revised preliminary plan. Motion carried 5 – 0.

**Savannah Road Professional Center
CU #1801 Amended Condition**

Mr. Abbott advised the Commission that this is a request to amend the condition of approval limiting one (1) lighted sign on the premise that shall not exceed 32 square feet on each side; that this conditional use was approved on June 7, 2011; that on November 19, 2009 the Commission recommended that the application be approved; that the applicants are requesting that the condition be amended to allow for an 80 square foot sign; that since the condition originated with the Commission, the Commission may amend/modify the condition; and that the Commission was previously provided a copy of a letter from the applicant's sign company detailing the request and a rendering of the proposed sign.

The Commission discussed the size of signs that have been erected along Savannah Road noting that there are some parcels zoned B-1 and C-1; and that it has been the Commission's policy to limit the size of signs on Conditional Use applications.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

**Ocean Way Estates Subdivision
Request to Install Gates**

Mr. Robertson advised the Commission that this subdivision was approved in three different phases over time; that gates and barriers have been installed in the interior of the project over time to keep vehicles from using the development as a short cut; that the gates have caused concerns for emergency vehicles accessing the development; and that if the gates are to remain, approvals should be required from the appropriate agencies.

Mr. Smith advised the Commission that the Office of the State Fire Marshal should review the request for compliance with State Codes for gated communities.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

**Ronald H. Sharp
3 Lots & 50' Right of Way – Road 210**

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the proposed lots would contain 0.79 acres, 0.88 acres and 2.14 acres; that the owner is proposing to create the 50-foot right of way over an existing private road; that the existing road is aggregate material; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

**Lynn and Karen McColley
3 Parcels & 50' Right of Way – Road 201**

Mr. Abbott advised the Commission that this item was deferred at the September 11, 2014 meeting so that the staff could provide the Commission a copy of the approved Ordinance for the Clean Delaware Conditional Use application (CU #1946); that the Commission has been provided a copy of the approved Ordinance; that this is a request to subdivide a 112.83 acre parcel into 3 lots with access from a 50-foot right of way; that the owners are proposing to create the right of way over an existing lane known as Lynn's Lane; that Lot 2 contains 29.98 acres, Lot 3 29.22 acres and Lot 4 53.52 acres; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request at the last meeting.

Mr. Burton stated that he moves that the Commission deny the request of Lynn and Karen McColley for 3 parcels and a 50 foot right of way at this time. The site of this request is the same location where Ordinance No. 2300 (Conditional Use #1946) for the land application of bio-solids remains valid and in effect. That Conditions Use, with its 19 conditions of approval, is inconsistent with the proposed subdivision. If the Conditional Use is terminated or voided, then the request to subdivide could be acted upon.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to deny the request for the reasons stated. Motion carried 5 – 0.

**Phil A. and Lynn R. Riche, Trustees
Parcel & 50' Right of Way – Road 589**

Mr. Abbott advised the Commission that this is a request to create a 9.176 acre parcel with access from an existing 50-foot right of way off of Road 589; that the right of way exists and serves as access to a parcel located in Kent County; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, this would be the second parcel having access from the right of way; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

Additional Business

Mr. Lank reminded the Commission that there is a Public Integrity Meeting/Presentation with the Sussex County Council scheduled for Tuesday September 30, 2014 at 7:00 p.m. in County Council Chambers and that they had received prior notice.

Meeting adjourned at 8:15 p.m.