



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF OCTOBER 23, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 23, 2008 in the County Council Chambers, County Administrative Office Building, 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. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. C. Shane Abbott – Assistant Director and Mr. Richard Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended by moving C/U #1751 to the end of the Public Hearings at the request of the Applicant due to a conflict in scheduling. Motion carried 5 – 0.

The Commission discussed the Minutes of September 25, 2008.

Mr. Lank advised the Commission that in reference to Subdivision #2007-5 Condition “a” should be amended to read “the maximum number of dwelling units shall not exceed 28 and the developer shall comply with all of the terms and conditions of Ordinance No. 1842”.

Mr. Robertson agreed.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of September 25, 2008 as amended, and the Minutes of October 9, 2008 and the Minutes of October 16, 2008 as circulated. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2006-56 – application of **ZONA SAEZ** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 1.98 acres into 2 lots, and a waiver from the street design requirements, located south of Road 287, 1,250 feet east of Road 288.

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

Subdivision #2007-4 – application of **LACROSSE HOMES OF DELAWARE** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 90.11 acres into 82 lots, located at the southwest corner of the intersection of Road 620 and Road 617.

Mr. Burton stated that he would move that the Commission deny Subdivision #2007 – 4 for Lacrosse Homes of Delaware based upon the record and for the following reasons:

1. The Applicant is seeking approval of a Standard Subdivision of $\frac{3}{4}$ acre lots within an AR-1 zone. The proposed subdivision project as designed, does not meet the purpose of the subdivision ordinance and Mr. Burton does not believe that it promotes and protects the health, safety, convenience, welfare and orderly growth of the County.
2. The proposed project also does not meet the purpose of the Subdivision Ordinance because it does not insure that residential developments are conveniently and properly located.
3. The proposed project is not in accordance with the Land Use Plan because it does not represent growth in an area where public infrastructure and services are available.
4. The project is in this area of Sussex County that has not developed with similar projects or residential density. There are no other developments in the immediate vicinity of Sussex County that are similar in density or design to what has been proposed.
5. The Delaware Nature Society has expressed its concerns about the effect of the application on the Nature Center and surrounding properties owned by it, the Division of Historical and Cultural Affairs and DNREC. These concerns include increased traffic in an area where thousands of pre-school and school-aged children visit each year for programs; the impact of the project and pollution and storm water runoff on local water quality; and forest fragmentation as a result of clearing activities for lot development and storm water management.
6. The proposed project is served by Lindale Road and Abbott's Pond Road, which are all local roads with a nearby one-lane bridge across Abbott's Mill Road. The project is inconsistent with the existing traffic and agricultural use of these roads, particularly Abbott's Mill Road which also has several dangerous curves nearby. The project would also lead to increased congestion on the adjacent and surrounding roads and the State has no plans to invest in roadway upgrades in this area.
7. Mr. Burton is concerned about the environmental impacts of 82 individual septic systems on the pristine Nature Center and Mill Pond.
8. Mr. Burton does not feel that the items set forth in Section 99-9C of the Subdivision Ordinance have been favorably addressed. For example:
 - A. The Applicant did not adequately address how the subdivision is integrated into the existing terrain and surrounding landscape, including the Mill Pond and Nature Preserve.
 - B. The Applicant did not adequately address whether the project will adversely affect natural areas such as the Abbott's Mill Nature Center or Mill Pond.
 - C. The Applicant did not adequately address how the project promotes the preservation of open space.

- D. The project will adversely affect area roadways and does not provide for safe vehicular and pedestrian movement within it or along adjacent roads, including a one-lane bridge. In addition, it is in the immediate vicinity of the Abbott's Mill Nature Center, which the record indicates is regularly visited by many school children and visitors. Again, the roads in this area are local roads of minimal width and the Applicant has not adequately addressed how these roads would be affected by this application, if approved.
- E. Mr. Burton is concerned that this project will adversely affect the National Register listed Abbott's Mill. The Applicant has not proven how the project will not adversely affect this historic structure and the Mill Pond.
- F. As stated by the Delaware Nature Society, the project and the traffic generated by it in this particular area would have an adverse impact on schools and thousands of school children that visit Abbott's Mill.

Motion by Mr. Burton, seconded by Mr. Johnson and carried 3 votes to 2, with Mr. Wheatley and Mr. Smith opposed, to deny this application for the reasons and with the conditions stated. Motion carried 3 – 2.

C/U #1750 – application of **JOHN GILMAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for athletic fields and related parking to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8.25 acres, more or less, lying east of Pyle Center Road (Route 20), 800 feet northwest of Roxana Road (Route 17).

The Commission discussed this application which has been deferred since October 9, 2008.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1750 for John Gilman for a fitness center, athletic fields and related parking based upon the record made at the public hearing and for the following reasons:

- 1) The use will provide a public service of providing fitness, training and structured recreational uses to nearby residents through athletic fields and the fitness center. The fields will be used for adult sports leagues as well as summer sports camps.
- 2) The proposed Conditional Use promotes the health, safety, convenience, and welfare of the residents of Sussex County.
- 3) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or communities.
- 4) The application is compliant with the County Comprehensive Plan Update.
- 5) This recommendation for approval is subject to the following conditions and stipulations:
 - A. The use shall be limited to the Fitness Center and apartment shown on the Preliminary Site Plan in the front portion of the site and the playing fields in the rear of the site with required parking necessary for both.
 - B. No lighting shall be permitted for the athletic fields.
 - C. No alcoholic beverages shall be permitted at the outdoor facilities.
 - D. The hours of operation shall be from 6:00 a.m. to 9:00 p.m. seven (7) days per week.
 - E. As proposed by the Applicant, a 20-foot wide buffer shall be constructed around the entire perimeter of the site.

- F. One lighted sign shall be permitted, not to exceed 32-square feet per side or facing.
- G. There shall be no more than 10 employees associated with the use.
- H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Gordy 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 stated. Motion carried 5 – 0.

C/Z #1664 – application of **HKS 3, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, land lying southeast of Piney Neck Road (Road 336), approximately 400 feet southwest of Hudson Road (Road 336A), to be located on 79.30 acres, more or less.

The Commission discussed this application which has been deferred since October 9, 2008.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1664 for HKS 3, LLC based upon the information contained in the record and for the following reasons:

1. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
2. MR Zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case, the project is within a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project. Water service will be provided by a publicly regulated water company.
3. The subject property is consistent with the variety of surrounding residential uses including the Town of Dagsboro, The Landings of Pepper Creek, Sea Cliffs, Pepper Creek Point, General Green and others.
4. The project has been accepted into the County's Moderately Priced Housing Unit (MPHU) Program.
5. The RPC designation is appropriate because the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. In this case, the RPC will be a mix of single family dwellings, townhouse units and duplex units, with MPHU units scattered throughout the project.
6. This recommendation is subject to the following conditions:
 - A. The maximum number of dwelling units shall not exceed 150 units, including 27 MPHU units.
 - B. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determinations.
 - C. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These

- amenities shall be articulated on the Master Plan and shall include active amenities in the central open space area with space for gatherings, sports, games and other open field uses to benefit all age groups in the development.
- D. The development shall be served as part of the Dagsboro/Frankford Sanitary Sewer District in accordance with the Sussex County Engineering Department requirements.
 - E. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - F. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. The Final Site Plan shall contain the approval of the Sussex Conservation District for the location and design of all stormwater management and erosion and sediment control facilities.
 - G. The Developer and the subsequent homeowners or condo association shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices.
 - H. As proposed by the Applicant, there shall be a buffer of at least 50-feet from any wetlands, and the vegetation to be included within the buffer area shall be shown on the Master Plan for the development. Also, all silt fencing shall be installed on the upland boundary of any wetlands buffers.
 - I. The interior street design shall be in accordance with or exceed Sussex County street design requirements and /or specifications. Street design shall include sidewalks on both sides of all streets and street lighting.
 - J. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
 - K. The Applicant shall form a homeowners' or condo association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
 - L. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
 - M. A school bus stop with parking shall be provided. The location of the school bus stop shall be coordinated with the local school district and shall be shown on the Final Site Plan.
 - N. The location of all moderately priced housing units shall be shown on each of the site plans, including the Master Plan and Phasing Plans. The moderately priced housing units shall be coordinated through the Sussex County Office of Community Development. There shall be a total of at least 27 moderately priced housing units located with the RPC.
 - O. Site Plan review by the Planning and Zoning Commission shall be required for the Master Plan and each phase of the proposed development.

Motion by Mr. Smith, seconded by Mr. Gordy, 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 stated. Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1753 – application of **R.T. ABSHER, JR., GENERAL CONTRACTING, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office and equipment storage for a septic and masonry business to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 5.28 acres, more or less, lying west of Route 16 and 1,150 feet north of Road 587.

The Commission found that on October 9, 2008 the Applicant provided an Exhibit Booklet and that the Booklet contained: a cover letter; a copy of portions of the Zoning Ordinance referencing the Purpose of a Conditional Use and the Purpose of the AR-1 Agricultural Residential District; a copy of a portion of the Comprehensive Plan referencing the Low Density Area and Guidelines for Non-Residential Use; an aerial view of the site; a portion of the Tax Map of the area depicting the site; a copy of Ordinance No. 1432 for Conditional Use No. 1381 for Delmarva Consignment Sales, a previous use of the site; a copy of Ordinance No. 1266 for Conditional Use No. 1259 for William L. and Bonnie M. Warren, an adjacent Conditional Use; a copy of a portion of the site plan for this application; a revised site plan; photographs of the site; a copy of the Support Facilities Report for the application from DelDOT; a copy of the Certificate of Compliance/Occupancy for the building on the site; a copy of the Building Permit, Septic Permit, and Well Permit for the site; photographs of a historic building restored for donation to the Milford Historical Society; a copy of a letter in support from William Warren; and suggested proposed conditions of approval.

The Commission found, based on comments received from DelDOT, that a Traffic Impact Study was not recommended and that the present Level of Service “A” of Hickman Road (Route 16) may change of a Level of Service “B”.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located within the Western Sussex Planning Area #1; that an individual on-site septic system is proposed; that the proposed project is located northwest of Greenwood and is not in an area where the County has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Raymond T. Absher, Jr. and Lori Absher were present with Tim Willard, Attorney, and stated in their presentations and in response to questions raised by the Commission that the business has existed for 7 years; that the business does septic work, well work, foundations and agricultural buildings; that the use meets the purposes of the Conditional Use and the Agricultural Residential District; that the use meets the guidelines for non-residential uses in the Comprehensive Plan; that the site is adjacent to a scrap metal business (C/U #1259); that when they purchased the property it had previously been approved for a Conditional Use for used car sales, camper and mobile home sales, and dismantling of mobile homes and campers (C/U #783 and C/U #1381); that they filed their application immediately after purchasing the property; that the south side of the property is already buffered with trees; that the intended use is less intense than the previously approved uses; that adequate space is available on the site for parking for the employees and equipment; that the existing chicken house is being converted for storage of materials; that bins are being established for storage of stone and sand related to the septic and well business; that they restored a historic house for the

Milford Historical Society; that the site is partially fenced with an 8-foot high solid fencing to provided screening from neighboring residential lots and the scrap metal business; that there should be no impact on traffic; that William Warren, the neighboring property owner has written a letter voicing no objections; that they demolished an old mobile home on the site approximately 6-months ago and would like to replace it; that they presently have 18 employees; that some of the employees drive separately and some carpool; that they have a dumpster on the site for trash; that the trash is picked up once per week; that they do not perform any maintenance on their business vehicles on the site; that broken and waste concrete blocks are also stored in bins; that employees pick up materials and deliver them to the site or job sites; that the site is approximately 1.5 miles from the Greenwood Volunteer Fire Company fire-station; and that the fencing will be maintained.

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.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use #1753 for R. T. Absher, Jr. General Contracting, Inc. based on the record and for the following reasons:

- 1) The use is of a public or semi-public character. The Applicant performs services for both the residential and agricultural uses in this area of Sussex County.
- 2) The proposed use will not adversely affect the neighboring and adjacent properties. There is an existing Conditional Use on this property and there are other more intensive uses nearby.
- 3) The use will not adversely affect traffic or area roadways.
- 4) This recommendation is subject to the following conditions:
 - A. This Conditional Use shall supersede and replace the prior Conditional Uses granted by Ordinance No. 783 and Ordinance No. 1432.
 - B. The use shall be limited to a general contracting headquarters for a site preparation, septic, well, and masonry business.
 - C. There shall be no more than 4 employees on the site during business hours and a total of 20 employees employed by the business.
 - D. All vehicles, equipment, pipe, aggregates, soils and masonry stored on the site shall be located in designated areas on the site and shall be shown on the Final Site Plan.
 - E. Business hours shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday.
 - F. One lighted sign shall be permitted at the entrance of the property, not to exceed 32 square feet in size.
 - G. There shall be no hazardous materials stored on the site.
 - H. As stated by the Applicant, a fence shall be built and maintained dividing the property from the residential and commercial use and a hedge row shall be maintained between the property and the agricultural use.
 - I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Gordy, 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 stated. Motion carried 5 – 0.

Subdivision #2007-13 – application of **C. LARRY MCKINLEY** to consider the Subdivision of land in a GR General Residential District in Little Creek Hundred, Sussex County, by dividing 97.14 acres into 206 lots, located west of Road 504, 215 feet south of Road 508.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of July 18, 2007 will be made a part of the record for this application; that the applicants submitted and the Commission has been provided a copy of an Exhibit Booklet and revised plan and a Nature Area Report Booklet that are all a part of the record; and that this site has been the subject site of three previous subdivision applications.

James Fuqua, Attorney, Andrew Hayes, P.E. with Foresite Engineering and Brian McKinley were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this application is for a standard 206 lot subdivision application; that the site is located north of Route 54, west of Providence Church Road and northeast of Susan Beach Corner approximately 2 miles west of Delmar; that the site contains approximately 97 acres, that there are 8 acres of forested area on the site; that there are 1.8 acres of wetlands on the site located in the northwest corner of the site; that the site is zoned General Residential; that 4 lots per acre are permitted and that the proposed density is 2.12 lots per acre; that several studies have been conducted on the site including an wetlands study, rare and endangered species study and an archaeological study; that no lots contain any wetlands; that a cemetery was found on the site; that the cemetery will not be located on a lot and the area will be marked and maintained and landscaped; that the maintenance of the cemetery will be performed by a homeowners' association; that parking will be provided; that public water and sewer will be provided by Tidewater Utilities and Environmental Services and that they have submitted a willing and able to serve letter; that other infrastructure will be provided by Delaware Electric Cooperative, Verizon, Comcast and Sharp Energy; that DelDOT did not require a traffic impact study; that the site is located in the Delmar School District and Delmar fire protection district; that the site contain 31 acre or 31.9% of open space; that a homeowners' association will be established; that recreational amenities will include 2 tennis/basketball courts, walking paths and sidewalks; that the site is in a developing area with the Blackwater Creek projects also being in the immediate area; that the minimum lot size is 10,000 square feet and the maximum lot is 17,000 square feet; that open space corridors are provided; that 30 to 50 foot buffers are proposed; that there is open space provided in the center of the project; that limited tree clearing is proposed; that the site drains to the front of the site; that the water table is high in the area and that storm water management ponds will be wet ponds; that there is a tax ditch that runs along the northern property line; that the applicant will pursue a jurisdictional determination for the wetlands from the Army Corps of Engineers; that the items referenced in section 99-9C of the Subdivision Code are addressed in the Exhibit Booklet; that the proposed dwellings will be stick-built or modular homes; that berms with landscaping will be located along Providence Church Road; that there is room to provide a bus stop; that the existing grade will be maintained as much as possible; that walking trails will be provided throughout the buffers and berm areas that will provide for a loop system of trails; that a cluster development is not permitted in the GR district; that the school district is building a new middle school; that the area is growing as a northern

suburb of Salisbury; that the storm water management locations are based on the layout of the site; that currently, the site is poorly drained; that the storm water ponds will be located approximately 20 feet from the right of way; that the ponds will be landscaped; that the storm water areas contain approximately 3 acres; that the tax ditch has an 80-foot easement; that there are residential lots located to the north of the site; that interconnections to adjoining properties are not provided since DelDOT did not require any; and submitted proposed findings and conditions of approval.

The Commission found that no parties appeared in support of or in opposition to this application.

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

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

Subdivision #2007-14 – application of **BOB BROOKS, BEAVER DAM PROPERTIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 14.08 acres into 21 lots, (Cluster Development), located at the southwest corner of the intersection of Roads 280 and 285.

Mr. Abbott advised the Commission that the Technical Advisory Committee report of September 15, 2008 will be made a part of the record for this application and that on October 14, 2008 the applicants submitted an Exhibit Booklet and Revised Preliminary Plan.

James Fuqua, Attorney, Roger Gross, P.E. with Merestone Consultants and Bob Brooks, owner were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this application is for a 21-lot cluster subdivision; that the project is located at the southwest corner of the intersection of Road 280 and 285; that the site contains 14 acres and is zoned AR-1; that there are approximately 6.2 acres of forested areas; that 3.2 acres will be preserved open space; that restricted clearing will be permitted; that there are 2 acres of wetlands on the site; that no wetlands exist on the individual lots; that a buffer will be provided from the wetlands; that DelDOT did not require a traffic impact study; that there is one entrance to the project; that all of DelDOT's requirements will be met; that the lots range from 8,050 square feet to 29,500 square feet; that the average lot size is 15,000 square feet; that there is a 50-foot buffer from Walls Branch; that the storm water management area is on the west side of the site since this is the lowest point; that there are 5 acres of open space which includes storm water management areas, wetlands and buffers; that a school bus stop can be provided; that there will be a buffer along Stockley Road; that the streets will be designed to County specifications with sidewalks on both sides of all streets and street lighting; that there is a circle proposed similar to the one in Georgetown; that walking trails and paths will be provided; that the proposed density is 1.49 lots per acre; that the site is located in the Cape Henlopen School District and the Lewes Fire Department fire protection district; that a homeowners' association will be established; that the site is in a low-density area; that there was a previous application for 8 lots but the owner revised the plan when central sewer became available; that there are other developments in the area; that Artesian will provide central sewer and water to the site; that an Exhibit Booklet was submitted; that the booklet addresses the items referenced in Section 99-9C;

that there will be minimal tree removal; that the existing wooded buffers will remain; that the site has been tilled and submitted proposed findings and conditions of approval.

The Commission found that no parties appeared in support of or in opposition to this application.

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

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

Subdivision #2007-15 – application of **EDWARD L. HOWELL, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred, Sussex County, by dividing 4.913 acres into 2 lots, and a waiver from the street design requirements, located northwest of Road 575A, 1,550 feet southwest of Road 573.

Mr. Abbott advised the Commission that the Technical Advisory Committee report of November 21, 2007 will be made a part of the record for this application; that on August 15, 2007 the Commission waived the topography requirements and that DelDOT issued a Letter of No Objection on January 3, 2007.

Edward Howell, Jr. was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the proposed lot is for a single family dwelling for a family member; that the proposed dwelling will be a minimum of 1,000 square feet; that the site is not in an Agricultural Preservation District; that he will comply with the Agricultural Use Protection Deed Restriction; that there is a tax ditch easement on the proposed lot and that access to the lot will be from a driveway.

The Commission found that no parties appeared in support of or in opposition to this application.

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

Mr. Gordy stated that he would move that the Commission grant preliminary and final approval of Subdivision #2007 – 15 for Edward L. Howell, Jr. based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 2 lots on 4.913 acres is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This recommendation is subject to the following conditions:

- A. There shall be no more than 2 lots within the subdivision.
- B. All entrances shall comply with all of DelDOT's requirements.
- C. The Final Site Plan shall be subject to the review and approval of Sussex County.
- D. A waiver shall be granted from the County's street design requirements.
- E. The County's Agricultural Use Protection Notice shall be included in the deeds to the properties.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a preliminary and a final for the reasons, and with the conditions stated. Motion carried 5 – 0.

C/U #1751 – application of **DARTMOUTH VENTURES, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for one or two business offices or one or two retail shops to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 26,330 square feet, more or less, lying at the southwest corner of Wilkins Road (Road 206) and Route One.

Mr. Lank reminded the Commission that this application had been changed to the last public hearing per the request of the Applicant due to a conflict of interest.

Mr. Lank advised the Commission that a letter was received from Robert V. Witsil, Jr., Attorney, on behalf of the Applicants, stated that they are amending their application by deleting the retail stores request and that they are applying for no more than 2 business offices on the parcel.

The Commission found that the Applicant provided an Exhibit Folder which contained a copy of the application form; photographs of the site; a copy of the deed to the property; a copy of the Future Land Use Plan Map from the Comprehensive Plan; a site plan; and a letter providing suggested proposed Findings of Fact and suggested proposed Conditions of Approval.

The Commission found, based on comments received from DelDOT, that a Traffic Impact Study was not recommended; that the Level of Service "A" of Cedar Neck Road may change to a Level of Service "E"; that the Level of Service "B" of Route One may change to a Level of Service "E"; that the property is subject to the Department's Corridor Capacity Preservation Program; that the property is located in an Investment Level 4 according to the State Strategies; that the Department will not approve a commercial entrance to access Route One, but the Applicant will be permitted to develop an access to Wilkins Road; that the access will need to be located as far west on the property as possible; that the Department has developed a concept plan to modify the intersection of Wilkins Road and Route One by closing the Route One median, eliminating Wilkins Road eastbound and westbound through and left-turning movements; that Route One northbound and southbound left-turning movements will still be permitted; that the Department is planning on building a bridge over Route One, south of Wilkins Road, to connect Cedar Creek Road and Cedar Neck Road, and build ramps to connect these roads with Route One; that the Department does not have funding programmed to build either of these improvements within the next six years; and that based on the transportation issues in the area, the Department

recommends that any Conditional Use approval be conditioned upon the trip generation of the proposed use not exceeding what would be expected under the current residential use, which is 10 trips per day.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located within the North Coastal Planning Area; that an on-site septic system is proposed; that the proposed project adjoins the City of Milford and is within the City's future growth and annexation area; that the Applicant should contact the City of Milford for information regarding central sewer; and that a concept plan is not required.

The Commission found that Arnold Wells was present with Robert V. Witsil, Jr., Attorney, and that they stated in their presentations and in response to questions raised by the Commission that the 4 photographs in the folder depict the existing structure on the site and a real estate promotional sign on the neighboring property to the north advertising a future commercial retail center; that DelDOT will not permit a commercial use utilizing the existing entrance on Route One and that access will be provided from Wilkins Road; that they are proposing 2 professional offices within the existing dwelling structure; that the dwelling will be remodeled on the interior; that they are not proposing to add any additions to the structure; that the use will not be out of character with the proposed uses in the area; that the site is located in a Town Center according to the Sussex County Comprehensive Plan; that the site is in compliance with the City of Milford Comprehensive Plan and Annexation Plan; that the use is in compliance with the Sussex County Comprehensive Plans for 2003 and 2008; that small professional office spaces are proposed, hopefully medical offices; that the structure is so close to Route One that residents have sleepless nights due to traffic noises; that it is not a reasonable site for residential use; that the office spaces could also be used by an accountant, a dentist, a real estate agent or similar uses; that they anticipate minimal traffic activities; that they have not yet contacted the City of Milford for utility services; that they would like to have a sign on both road frontages; and that adequate space is available for parking and stormwater management.

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.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1751 for Dartmouth Ventures, L.L.C. based on the record and for the following reasons:

- 1) The site is located along Route One at an intersection, and DelDOT has required that the entrance be from Wilkins Road. This is an appropriate location for this use.
- 2) This application is now limited to professional and business offices.
- 3) The project, with the proposed conditions placed upon it will not have an adverse impact on the neighboring properties or community.
- 4) This recommendation is subject to the following conditions:
 - A. The use shall be limited to business and professional offices. The offices may be used for such services as law offices, accountant offices, doctor's offices, engineering offices, real estate offices, or similar uses.
 - B. The use shall comply with all DelDOT regulations and requirements.

- C. Two (2) lighted signs, not to exceed 32 square feet per side, shall be permitted.
- D. Hours of operation shall be limited to no earlier than 8:00 a.m. no later than 8:00 p.m.
- E. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, 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 stated. Motion carried 5 – 0.

ADDITIONAL BUSINESS

Mr. Lank provided the Commission with copies of proposed Ordinances relating to Superior Design and Accessory Buildings for the review.

Mr. Lank advised the Commission that the public hearing for the Superior Design Ordinance is scheduled for November 20, 2008 for their consideration. The Accessory Building Ordinance has not yet been scheduled.

Meeting adjourned at 8:15 p.m.